



STATE OF TENNESSEE
Tennessee Department of Agriculture

REQUEST FOR PROPOSALS
FOR
LABORATORY TESTING OF ENGINE AND HEATING FUELS,
REPORTING OF RESULTS, AND RELATED SUPPORT
SERVICES
RFP # 32505-02422

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1. INTRODUCTION

The State of Tennessee, Department of Agriculture, hereinafter referred to as “the State,” issues this Request for Proposals (RFP) to define minimum contract requirements; solicit responses; detail response requirements; and, outline the State’s process for evaluating responses and selecting a contractor to provide the needed goods or services.

Through this RFP, the State seeks to procure necessary goods or services at the most favorable, competitive prices and to give ALL qualified respondents, including those that are owned by minorities, women, service-disabled veterans, persons with disabilities and small business enterprises, an opportunity to do business with the state as contractors, subcontractors or suppliers.

1.1. Statement of Procurement Purpose

The State intends to secure a contract for laboratory analysis of engine fuels and heating fuels, reporting of results, and associated support to continue the Kerosene and Motor Fuels Quality Inspection Program pursuant to Public Chapter 397 of 1989, TCA § 47-18-1301. Under this program the State regulates the quality of engine fuels and heating fuels conveyed in the State of Tennessee. Gasoline, diesel fuel, kerosene, aviation gasoline, aviation turbine fuel, biodiesel, biodiesel blends, denatured fuel ethanol, and ethanol flex fuel are products representing the main focus of the State's testing program but other fuel types found in Tennessee Department of Agriculture, Division of Markets, Chapter 0080-05-12 Kerosene and Motor Fuels Quality Inspection Regulations may also be requested for testing.

1.1.1 Laboratory Analysis - Volume of Samples

The Contractor shall provide laboratory quality analysis as requested by the State. For reference purposes only, the product types and number of each to be submitted annually is approximately:

Gasoline/Gasoline Oxygenate Blends	5595
Diesel (Biodiesel < 6%)	1675
Diesel (Biodiesel > 6-20%)	150
Kerosene/Fuel Oils	400
Aviation Gasoline	50
Aviation Turbine Fuel	50
Biodiesel Blending Stock	100
Denatured Fuel Ethanol	100
Ethanol Flex Fuel (Ethanol Fuel Blends)	120
Liquefied Petroleum Gas	10

It shall be noted that the quantities stated above are an approximation.

1.1.2 Reporting of Results

The Contractor shall review analytical results for accuracy and report to the State such accurate analytical results for each sample submitted by the State within four (4) business days after the sample has been released to the Contractor. A sample shall be considered released to the Contractor after delivery to the laboratory operating in the Nashville Metropolitan area or delivered to any Contractor representative designated to coordinate shipment of samples to a laboratory outside the Nashville Metropolitan area.

The Contractor shall be responsible for evaluating the test results obtained on each sample against product specifications adopted as State standards. These standards can be found in State of Tennessee Department of Agriculture Rules 0080-05-12 and TCA 47-18-13. The State shall be contacted by either telephone or e-mail immediately upon the determination that a sample test parameter has failed any state standard. Each result shall indicate the compliance status of each specification parameter in a format dictated by the data management software

supplied by the State. The requirements for use of and connection to the TDA data management software are detailed in pro forma contract section A.12 (RFP pgs 47-48).

Any parameter result reported that will result in a non-compliant sample will be tested a minimum of two (2) times for the parameter in question before the results are reported to the State. When a test method allows for more than one procedure, the procedure generally considered the most precise and reliable must be used to confirm that a sample is out of specification. If there is more than one procedure and the Contractor is unsure which procedure to follow, the Contractor must seek guidance from the State.

- 1.1.3. The total purchase amount incurred through fifty-four (54) months of the State's current contract for similar services is \$4,054,686.25.

1.2. **Scope of Service, Contract Period, & Required Terms and Conditions**

The RFP Attachment 6.7., *Pro Forma* Contract details the State's requirements:

- Scope of Services and Deliverables (Section A);
- Contract Period (Section B);
- Payment Terms (Section C);
- Standard Terms and Conditions (Section D); and,
- Special Terms and Conditions (Section E).

The *pro forma* contract substantially represents the contract document that the successful Respondent must sign.

1.3. **Nondiscrimination**

No person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of a Contract pursuant to this RFP or in the employment practices of the Contractor on the grounds of handicap or disability, age, race, creed, color, religion, sex, national origin, or any other classification protected by federal, Tennessee state constitutional, or statutory law. The Contractor pursuant to this RFP shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.

1.4. **RFP Communications**

- 1.4.1. The State has assigned the following RFP identification number that must be referenced in all communications regarding this RFP:

RFP # 32505-02422

- 1.4.2. **Unauthorized contact about this RFP with employees or officials of the State of Tennessee except as detailed below may result in disqualification from consideration under this procurement process.**

- 1.4.2.1. Prospective Respondents must direct communications concerning this RFP to the following person designated as the Solicitation Coordinator:

Josh Polk
 Department of General Services, Central Procurement Office
 312 Rosa L Parks Blvd, 3rd Floor
 Nashville, TN 37243
 615-360-4460

Joshua.Polk@tn.gov

1.4.2.2. Notwithstanding the foregoing, Prospective Respondents may alternatively contact:

- a. staff of the Governor's Office of Diversity Business Enterprise for assistance available to minority-owned, woman-owned, service-disabled veteran-owned, businesses owned by persons with disabilities, and small businesses as well as general, public information relating to this RFP (visit <https://www.tn.gov/generalservices/procurement/central-procurement-office--cpo-/governor-s-office-of-diversity-business-enterprise--godbe--/godbe-general-contacts.html> for contact information); and
- b. the following individual designated by the State to coordinate compliance with the nondiscrimination requirements of the State of Tennessee, Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act of 1990, and associated federal regulations:

Jay Miller, General Counsel
P.O. Box 40627
Nashville, TN 37204
615-837-5341
jay.miller@tn.gov

- 1.4.3. Only the State's official, written responses and communications with Respondents are binding with regard to this RFP. Oral communications between a State official and one or more Respondents are unofficial and non-binding.
- 1.4.4. Potential Respondents must ensure that the State receives all written questions and comments, including questions and requests for clarification, no later than the Written Questions & Comments Deadline detailed in the RFP Section 2, Schedule of Events.
- 1.4.5. Respondents must assume the risk of the method of dispatching any communication or response to the State. The State assumes no responsibility for delays or delivery failures resulting from the Respondent's method of dispatch. Actual or digital "postmarking" of a communication or response to the State by a specified deadline is not a substitute for the State's actual receipt of a communication or response.
- 1.4.6. The State will convey all official responses and communications related to this RFP to the prospective Respondents from whom the State has received a Notice of Intent to Respond (refer to RFP Section 1.8).
- 1.4.7. The State reserves the right to determine, at its sole discretion, the method of conveying official, written responses and communications related to this RFP. Such written communications may be transmitted by mail, hand-delivery, facsimile, electronic mail, Internet posting, or any other means deemed reasonable by the State. For internet posting, please refer to the following website: <https://www.tn.gov/generalservices/procurement/central-procurement-office--cpo-/supplier-information/request-for-proposals--rfp--opportunities1.html>.
- 1.4.8. The State reserves the right to determine, at its sole discretion, the appropriateness and adequacy of responses to written comments, questions, and requests related to this RFP. The State's official, written responses will constitute an amendment of this RFP.

1.4.9. Any data or factual information provided by the State (in this RFP, an RFP amendment or any other communication relating to this RFP) is for informational purposes only. The State will make reasonable efforts to ensure the accuracy of such data or information, however it is the Respondent's obligation to independently verify any data or information provided by the State. The State expressly disclaims the accuracy or adequacy of any information or data that it provides to prospective Respondents.

1.5. **Assistance to Respondents With a Handicap or Disability**

Prospective Respondents with a handicap or disability may receive accommodation relating to the communication of this RFP and participating in the RFP process. Prospective Respondents may contact the Solicitation Coordinator to request such reasonable accommodation no later than the Disability Accommodation Request Deadline detailed in the RFP Section 2, Schedule of Events.

1.6. **Respondent Required Review & Waiver of Objections**

1.6.1. Each prospective Respondent must carefully review this RFP, including but not limited to, attachments, the RFP Attachment 6.7., *Pro Forma* Contract, and any amendments, for questions, comments, defects, objections, or any other matter requiring clarification or correction (collectively called "questions and comments").

1.6.2. Any prospective Respondent having questions and comments concerning this RFP must provide them in writing to the State no later than the Written Questions & Comments Deadline detailed in the RFP Section 2, Schedule of Events.

1.6.3. Protests based on any objection to the RFP shall be considered waived and invalid if the objection has not been brought to the attention of the State, in writing, by the Written Questions & Comments Deadline.

1.7. **Pre-Response Conference**

A Pre-response Conference will be held at the time and date detailed in the RFP Section 2, Schedule of Events. Pre-response Conference attendance is not mandatory, and prospective Respondents may be limited to a maximum number of attendees depending upon overall attendance and space limitations.

The conference will be held at:

https://teams.microsoft.com/l/meetup-join/19%3ameeting_OTImYjA1YjgtMWFkNi00ZjRhLWEyMmltNTQyNzJlMmY2Yzlj%40thread.v2/0?content=%7b%22id%22%3a%22f345bebf-0d71-4337-9281-24b941616c36%22%2c%22oid%22%3a%2283fa7c45-d05a-4baa-90e0-6980f38f2f7b%22%7d

The purpose of the conference is to discuss the RFP scope of goods or services. The State will entertain questions, however prospective Respondents must understand that the State's oral response to any question at the Pre-response Conference shall be unofficial and non-binding. Prospective Respondents must submit all questions, comments, or other concerns regarding the RFP in writing prior to the Written Questions & Comments Deadline date detailed in the RFP Section 2, Schedule of Events. The State will send the official response to these questions and comments to prospective Respondents from whom the State has received a Notice of Intent to respond as indicated in RFP Section 1.8 and on the date detailed in the RFP Section 2, Schedule of Events.

1.8. **Notice of Intent to Respond**

Before the Notice of Intent to Respond Deadline detailed in the RFP Section 2, Schedule of Events, prospective Respondents should submit to the Solicitation Coordinator a Notice of Intent to Respond (in the form of a simple e-mail or other written communication). Such notice should include the following information:

- the business or individual's name (as appropriate);
- a contact person's name and title; and
- the contact person's mailing address, telephone number, facsimile number, and e-mail address.

A Notice of Intent to Respond creates no obligation and is not a prerequisite for submitting a response, however, it is necessary to ensure receipt of any RFP amendments or other notices and communications relating to this RFP.

1.9. **Response Deadline**

A Respondent must ensure that the State receives a response no later than the Response Deadline time and date detailed in the RFP Section 2, Schedule of Events. The State will not accept late responses, and a Respondent's failure to submit a response before the deadline will result in disqualification of the response. It is the responsibility of the Respondent to ascertain any additional security requirements with respect to packaging and delivery to the State of Tennessee. Respondents should be mindful of any potential delays due to security screening procedures, weather, or other filing delays whether foreseeable or unforeseeable.

2. RFP SCHEDULE OF EVENTS

2.1. The following RFP Schedule of Events represents the State's best estimate for this RFP.

EVENT	TIME (central time zone)	DATE
1. RFP Issued		December 1, 2022
2. Disability Accommodation Request Deadline	2:00 p.m.	December 6, 2022
3. Pre-response Conference	9:00 a.m.	December 7, 2022
4. Notice of Intent to Respond Deadline	2:00 p.m.	December 8, 2022
5. Written "Questions & Comments" Deadline	2:00 p.m.	December 13, 2022
6. State Response to Written "Questions & Comments"		December 22, 2022
7. Response Deadline	2:00 p.m.	January 4, 2023
8. State Completion of Technical Response Evaluations		January 11, 2023
9. State Opening & Scoring of Cost Proposals	2:00 p.m.	January 12, 2023
10. Negotiations (optional)		January 12-13, 2023
11. State Notice of Intent to Award Released <u>and</u> RFP Files Opened for Public Inspection	2:00 p.m.	January 18, 2023
12. End of Open File Period		January 25, 2023
13. State sends contract to Contractor for signature		January 26, 2023
14. Contractor Signature Deadline	2:00 p.m.	January 30, 2023

2.2. **The State reserves the right, at its sole discretion, to adjust the RFP Schedule of Events as it deems necessary.** Any adjustment of the Schedule of Events shall constitute an RFP amendment, and the State will communicate such to prospective Respondents from whom the State has received a Notice of Intent to Respond (refer to section 1.8).

3. RESPONSE REQUIREMENTS

3.1. Response Form

A response to this RFP must consist of two parts, a Technical Response and a Cost Proposal.

- 3.1.1. **Technical Response.** RFP Attachment 6.2., Technical Response & Evaluation Guide provides the specific requirements for submitting a response. This guide includes mandatory requirement items, operational summary including, general qualifications and experience items, and technical qualifications, experience, and approach items all of which must be addressed with a written response and, in some instances, additional documentation.

NOTICE: A technical response must not include any pricing or cost information. If any pricing or cost information amounts of any type (even pricing relating to other projects) is included in any part of the technical response, the state may deem the response to be non-responsive and reject it.

- 3.1.1.1. A Respondent should duplicate and use the RFP Attachment 6.2., Technical Response & Evaluation Guide to organize, reference, and draft the Technical Response by duplicating the attachment, adding appropriate page numbers as required, and using the guide as a table of contents covering the Technical Response.
- 3.1.1.2. A response should be economically prepared, with emphasis on completeness and clarity. A response, as well as any reference material presented, must be written in English and must be written on standard 8 ½" x 11" pages (although oversize exhibits are permissible) and use a 12 point font for text. All response pages must be numbered.
- 3.1.1.3. All information and documentation included in a Technical Response should correspond to or address a specific requirement detailed in the RFP Attachment 6.2., Technical Response & Evaluation Guide. All information must be incorporated into a response to a specific requirement and clearly referenced. Any information not meeting these criteria will be deemed extraneous and will not contribute to evaluations.
- 3.1.1.4. The State may determine a response to be non-responsive and reject it if:
- a. the Respondent fails to organize and properly reference the Technical Response as required by this RFP and the RFP Attachment 6.2., Technical Response & Evaluation Guide; or
 - b. the Technical Response document does not appropriately respond to, address, or meet all of the requirements and response items detailed in the RFP Attachment 6.2., Technical Response & Evaluation Guide.
- 3.1.2. **Cost Proposal.** A Cost Proposal must be recorded on an exact duplicate of the RFP Attachment 6.3., Cost Proposal & Scoring Guide.

NOTICE: If a Respondent fails to submit a cost proposal exactly as required, the State may deem the response to be non-responsive and reject it.

- 3.1.2.1. A Respondent must only record the proposed cost exactly as required by the RFP Attachment 6.3., Cost Proposal & Scoring Guide and must NOT record any other rates, amounts, or information.

- 3.1.2.2. The proposed cost shall incorporate ALL costs for services under the contract for the total contract period, including any renewals or extensions.
- 3.1.2.3. A Respondent must sign and date the Cost Proposal.
- 3.1.2.4. A Respondent must submit the Cost Proposal to the State in a sealed package separate from the Technical Response (as detailed in RFP Sections 3.2.3., *et seq.*).

3.2. Response Delivery

3.2.1. A Respondent must ensure that both the original Technical Response and Cost Proposal documents meet all form and content requirements, including all required signatures, as detailed within this RFP, as may be amended.

3.2.2. A Respondent must submit original Technical Response and Cost Proposal documents and copies as specified below.

3.2.2.1. One (1) original Technical Response paper document labeled:

“RFP # 32505-02422TECHNICAL RESPONSE ORIGINAL”

and four (4) digital copies of the Technical Response each in the form of one (1) digital document in “PDF” format properly recorded on its own otherwise blank, USB flash drive labeled:

“RFP # 32505-02422TECHNICAL RESPONSE COPY”

The digital copies should not include copies of sealed customer references, however any other discrepancy between the paper Technical Response document and any digital copies may result in the State rejecting the proposal as non-responsive.

3.2.2.2. One (1) original Cost Proposal paper document labeled:

“RFP # 32505-02422COST PROPOSAL ORIGINAL”

and one (1) copy in the form of a digital document in “PDF” format properly recorded on separate, blank, USB flash drive labeled:

“RFP # 32505-02422COST PROPOSAL COPY”

In the event of a discrepancy between the original Cost Proposal document and the digital copy, the original, signed document will take precedence.

3.2.3. A Respondent must separate, seal, package, and label the documents and copies for delivery as follows:

3.2.3.1. The Technical Response original document and digital copies must be placed in a sealed package that is clearly labeled:

“DO NOT OPEN... RFP # 32505-02422 TECHNICAL RESPONSE FROM [RESPONDENT LEGAL ENTITY NAME]”

3.2.3.2. The Cost Proposal original document and digital copy must be placed in a separate, sealed package that is clearly labeled:

“DO NOT OPEN... RFP # 32505-02422 COST PROPOSAL FROM [RESPONDENT LEGAL ENTITY NAME]”

- 3.2.3.3. The separately, sealed Technical Response and Cost Proposal components may be enclosed in a larger package for mailing or delivery, provided that the outermost package is clearly labeled:

“RFP # 32505-02422 SEALED TECHNICAL RESPONSE & SEALED COST PROPOSAL FROM [RESPONDENT LEGAL ENTITY NAME]”

- 3.2.4. A Respondent must ensure that the State receives a response no later than the Response Deadline time and date detailed in the RFP Section 2, Schedule of Events at the following address:

Josh Polk
 Department of General Services, Central Procurement Office
 3rd Floor
 312 Rosa L Parks Ave
 Nashville, TN 37243

3.3. Response & Respondent Prohibitions

- 3.3.1. A response must not include alternate contract terms and conditions. If a response contains such terms and conditions, the State, at its sole discretion, may determine the response to be a non-responsive counteroffer and reject it.
- 3.3.2. A response must not restrict the rights of the State or otherwise qualify either the offer to deliver goods or provide services as required by this RFP or the Cost Proposal. If a response restricts the rights of the State or otherwise qualifies either the offer to deliver goods or provide services as required by this RFP or the Cost Proposal, the State, at its sole discretion, may determine the response to be a non-responsive counteroffer and reject it.
- 3.3.3. A response must not propose alternative goods or services (*i.e.*, offer services different from those requested and required by this RFP) unless expressly requested in this RFP. The State may consider a response of alternative goods or services to be non-responsive and reject it.
- 3.3.4. A Cost Proposal must be prepared and arrived at independently and must not involve any collusion between Respondents. The State will reject any Cost Proposal that involves collusion, consultation, communication, or agreement between Respondents. Regardless of the time of detection, the State will consider any such actions to be grounds for response rejection or contract termination.
- 3.3.5. A Respondent must not provide, for consideration in this RFP process or subsequent contract negotiations, any information that the Respondent knew or should have known was materially incorrect. If the State determines that a Respondent has provided such incorrect information, the State will deem the Response non-responsive and reject it.
- 3.3.6. A Respondent must not submit more than one Technical Response and one Cost Proposal in response to this RFP, except as expressly requested by the State in this RFP. If a Respondent submits more than one Technical Response or more than one Cost Proposal, the State will deem all of the responses non-responsive and reject them.
- 3.3.7. A Respondent must not submit a response as a prime contractor while also permitting one or more other Respondents to offer the Respondent as a subcontractor in their own responses. Such may result in the disqualification of all Respondents knowingly involved. This restriction does not, however, prohibit different Respondents from offering the same subcontractor as a part of their responses (provided that the subcontractor does not also submit a response as a prime contractor).

3.3.8. The State shall not consider a response from an individual who is, or within the past six (6) months has been, a State employee. For purposes of this RFP:

3.3.8.1. An individual shall be deemed a State employee until such time as all compensation for salary, termination pay, and annual leave has been paid;

3.3.8.2. A contract with or a response from a company, corporation, or any other contracting entity in which a controlling interest is held by any State employee shall be considered to be a contract with or proposal from the employee; and

3.3.8.3. A contract with or a response from a company, corporation, or any other contracting entity that employs an individual who is, or within the past six (6) months has been, a State employee shall not be considered a contract with or a proposal from the employee and shall not constitute a prohibited conflict of interest.

3.3.9. This RFP is also subject to Tenn. Code Ann. § 12-4-101—105.

3.4. **Response Errors & Revisions**

A Respondent is responsible for any and all response errors or omissions. A Respondent will not be allowed to alter or revise response documents after the Response Deadline time and date detailed in the RFP Section 2, Schedule of Events unless such is formally requested, in writing, by the State.

3.5. **Response Withdrawal**

A Respondent may withdraw a submitted response at any time before the Response Deadline time and date detailed in the RFP Section 2, Schedule of Events by submitting a written request signed by an authorized Respondent representative. After withdrawing a response, a Respondent may submit another response at any time before the Response Deadline. After the Response Deadline, a Respondent may only withdraw all or a portion of a response where the enforcement of the response would impose an unconscionable hardship on the Respondent.

3.6. **Additional Services**

If a response offers goods or services in addition to those required by and described in this RFP, the State, at its sole discretion, may add such services to the contract awarded as a result of this RFP. Notwithstanding the foregoing, a Respondent must not propose any additional cost amounts or rates for additional goods or services. Regardless of any additional services offered in a response, the Respondent's Cost Proposal must only record the proposed cost as required in this RFP and must not record any other rates, amounts, or information.

NOTICE: If a Respondent fails to submit a Cost Proposal exactly as required, the State may deem the response non-responsive and reject it.

3.7. **Response Preparation Costs**

The State will not pay any costs associated with the preparation, submittal, or presentation of any response.

4. GENERAL CONTRACTING INFORMATION & REQUIREMENTS

4.1. RFP Amendment

The State at its sole discretion may amend this RFP, in writing, at any time prior to contract award. However, prior to any such amendment, the State will consider whether it would negatively impact the ability of potential Respondents to meet the response deadline and revise the RFP Schedule of Events if deemed appropriate. If an RFP amendment is issued, the State will convey it to potential Respondents who submitted a Notice of Intent to Respond (refer to RFP Section 1.8). A response must address the final RFP (including its attachments) as amended.

4.2. RFP Cancellation

The State reserves the right, at its sole discretion, to cancel the RFP or to cancel and reissue this RFP in accordance with applicable laws and regulations.

4.3. State Right of Rejection

4.3.1. Subject to applicable laws and regulations, the State reserves the right to reject, at its sole discretion, any and all responses.

4.3.2. The State may deem as non-responsive and reject any response that does not comply with all terms, conditions, and performance requirements of this RFP. Notwithstanding the foregoing, the State reserves the right to waive, at its sole discretion, minor variances from full compliance with this RFP. If the State waives variances in a response, such waiver shall not modify the RFP requirements or excuse the Respondent from full compliance, and the State may hold any resulting Contractor to strict compliance with this RFP.

4.4. Assignment & Subcontracting

4.4.1. The Contractor may not subcontract, transfer, or assign any portion of the Contract awarded as a result of this RFP without prior approval of the State. The State reserves the right to refuse approval, at its sole discretion, of any subcontract, transfer, or assignment.

4.4.2. If a Respondent intends to use subcontractors, the response to this RFP must specifically identify the scope and portions of the work each subcontractor will perform (refer to RFP Attachment 6.2., Section C, Technical Qualifications, Experience and Approach Items item C.5.).

4.4.3. Subcontractors identified within a response to this RFP will be deemed as approved by the State unless the State expressly disapproves one or more of the proposed subcontractors prior to signing the Contract.

4.4.4. After contract award, a Contractor may only substitute an approved subcontractor at the discretion of the State and with the State's prior, written approval.

4.4.5. Notwithstanding any State approval relating to subcontracts, the Respondent who is awarded a contract pursuant to this RFP will be the prime contractor and will be responsible for all work under the Contract.

4.5. Right to Refuse Personnel or Subcontractors

The State reserves the right to refuse, at its sole discretion and notwithstanding any prior approval, any personnel of the prime contractor or a subcontractor providing goods or services in the performance of a contract resulting from this RFP. The State will document in writing the reason(s) for any rejection of personnel.

4.6. Insurance

The State will require the awarded Contractor to provide a Certificate of Insurance issued by an insurance company licensed or authorized to provide insurance in the State of Tennessee. Each Certificate of Insurance shall indicate current insurance coverages meeting minimum requirements as may be specified by this RFP. A failure to provide a current, Certificate of Insurance will be considered a material breach and grounds for contract termination.

4.7. Professional Licensure and Department of Revenue Registration

- 4.7.1. All persons, agencies, firms, or other entities that provide legal or financial opinions, which a Respondent provides for consideration and evaluation by the State as a part of a response to this RFP, shall be properly licensed to render such opinions.
- 4.7.2. Before the Contract resulting from this RFP is signed, the apparent successful Respondent (and Respondent employees and subcontractors, as applicable) must hold all necessary or appropriate business or professional licenses to provide the goods or services as required by the contract. The State may require any Respondent to submit evidence of proper licensure.
- 4.7.3. Before the Contract resulting from this RFP is signed, the apparent successful Respondent must be registered with the Tennessee Department of Revenue for the collection of Tennessee sales and use tax. The State shall not award a contract unless the Respondent provides proof of such registration or provides documentation from the Department of Revenue that the Contractor is exempt from this registration requirement. The foregoing is a mandatory requirement of an award of a contract pursuant to this solicitation. To register, please visit the Department of Revenue's Tennessee Taxpayer Access Point (TNTAP) website for Online Registration and the Vendor Contract Questionnaire. These resources are available at the following:
<https://tntap.tn.gov/eservices/#1>

4.8. Disclosure of Response Contents

- 4.8.1. All materials submitted to the State in response to this RFP shall become the property of the State of Tennessee. Selection or rejection of a response does not affect this right. By submitting a response, a Respondent acknowledges and accepts that the full response contents and associated documents will become open to public inspection in accordance with the laws of the State of Tennessee.
- 4.8.2. The State will hold all response information, including both technical and cost information, in confidence during the evaluation process.
- 4.8.3. Upon completion of response evaluations, indicated by public release of a Notice of Intent to Award, the responses and associated materials will be open for review by the public in accordance with Tenn. Code Ann. § 10-7-504(a)(7).

4.9. Contract Approval and Contract Payments

- 4.9.1. After contract award, the Contractor who is awarded the contract must submit appropriate documentation with the Department of Finance and Administration, Division of Accounts.
- 4.9.2. This RFP and its contractor selection processes do not obligate the State and do not create rights, interests, or claims of entitlement in either the Respondent with the apparent best-evaluated response or any other Respondent. State obligations pursuant to a contract award shall commence only after the Contract is signed by the State agency head and the Contractor and after the Contract is approved by all other state officials as required by applicable laws and regulations.
- 4.9.3. No payment will be obligated or made until the relevant Contract is approved as required by applicable statutes and rules of the State of Tennessee.

- 4.9.3.1. The State shall not be liable for payment of any type associated with the Contract resulting from this RFP (or any amendment thereof) or responsible for any goods delivered or services rendered by the Contractor, even goods delivered or services rendered in good faith and even if the Contractor is orally directed to proceed with the delivery of goods or the rendering of services, if it occurs before the Contract Effective Date or after the Contract Term.
- 4.9.3.2. All payments relating to this procurement will be made in accordance with the Payment Terms and Conditions of the Contract resulting from this RFP (refer to RFP Attachment 6.7., *Pro Forma* Contract, Section C).
- 4.9.3.3. If any provision of the Contract provides direct funding or reimbursement for the competitive purchase of goods or services as a component of contract performance or otherwise provides for the reimbursement of specified, actual costs, the State will employ all reasonable means and will require all such documentation that it deems necessary to ensure that such purchases were competitive and costs were reasonable, necessary, and actual. The Contractor shall provide reasonable assistance and access related to such review. Further, the State shall not remit, as funding or reimbursement pursuant to such provisions, any amounts that it determines do not represent reasonable, necessary, and actual costs.

4.10. **Contractor Performance**

The Contractor who is awarded a contract will be responsible for the delivery of all acceptable goods or the satisfactory completion of all services set out in this RFP (including attachments) as may be amended. All goods or services are subject to inspection and evaluation by the State. The State will employ all reasonable means to ensure that goods delivered or services rendered are in compliance with the Contract, and the Contractor must cooperate with such efforts.

4.11. **Contract Amendment**

After Contract award, the State may request the Contractor to deliver additional goods or perform additional services within the general scope of the Contract and this RFP, but beyond the specified Scope, and for which the Contractor may be compensated. In such instances, the State will provide the Contractor a written description of the additional goods or services. The Contractor must respond to the State with a time schedule for delivering the additional goods or accomplishing the additional services based on the compensable units included in the Contractor's response to this RFP. If the State and the Contractor reach an agreement regarding the goods or services and associated compensation, such agreement must be effected by means of a contract amendment. Further, any such amendment requiring additional goods or services must be signed by both the State agency head and the Contractor and must be approved by other state officials as required by applicable statutes, rules, policies and procedures of the State of Tennessee. The Contractor must not provide additional goods or render additional services until the State has issued a written contract amendment with all required approvals.

4.12. **Severability**

If any provision of this RFP is declared by a court to be illegal or in conflict with any law, said decision will not affect the validity of the remaining RFP terms and provisions, and the rights and obligations of the State and Respondents will be construed and enforced as if the RFP did not contain the particular provision held to be invalid.

4.13. **Next Ranked Respondent**

The State reserves the right to initiate negotiations with the next ranked Respondent should the State cease doing business with any Respondent selected via this RFP process.

5. EVALUATION & CONTRACT AWARD

5.1. Evaluation Categories & Maximum Point Values

The State will consider and rank technical responses, calculate cost proposals and assign points in each of the evaluation categories detailed below (up to the maximum evaluation point values indicated) to each response deemed by the State to be responsive.

EVALUATION CATEGORY	MAXIMUM POINT VALUE
Operational Summary (refer to RFP Attachment 6.2., Section B)	25
Technical Qualifications, Experience & Approach (refer to RFP Attachment 6.2., Section C)	40
Cost Proposal (refer to RFP Attachment 6.3.)	35

5.2. Evaluation Process

The evaluation process is designed to award the contract resulting from this RFP not necessarily to the Respondent offering the lowest cost, but rather to the Respondent deemed by the State to be responsive and responsible who offers the best combination of attributes based upon the evaluation criteria. ("Responsive Respondent" is defined as a Respondent that has submitted a response that conforms in all material respects to the RFP. "Responsible Respondent" is defined as a Respondent that has the capacity in all respects to perform fully the contract requirements, and the integrity and reliability which will assure good faith performance.)

5.2.1. **Technical Response Evaluation.** The Solicitation Coordinator and the Proposal Evaluation Team (consisting of three (3) or more State employees) will use RFP Attachments 6.2., 6.5. and 6.6., to manage the Technical Response Evaluation and maintain evaluation records.

5.2.1.1. The State reserves the right, at its sole discretion, to request Respondent clarification of a Technical Response or to conduct clarification discussions with any or all Respondents. Any such clarification or discussion will be limited to specific sections of the response identified by the State. The subject Respondent must put any resulting clarification in writing as may be required and in accordance with any deadline imposed by the State.

5.2.1.2. The Solicitation Coordinator will review each Technical Response to determine compliance with RFP Attachment 6.2., Technical Response & Evaluation Guide, Section A— Mandatory Requirements. If the Solicitation Coordinator determines that a response failed to meet one or more of the mandatory requirements, the Proposal Evaluation Team will review the response and document the team's determination of whether:

- a. the response adequately meets RFP requirements for further evaluation;
- b. the State will request clarifications or corrections for consideration prior to further evaluation; or,
- c. the State will determine the response to be non-responsive to the RFP and reject it.

5.2.1.3. Proposal Evaluation Team members will independently evaluate each Responsive Technical Response and ordinaly rank each proposal against each other for each section, taking into account all item responses in RFP Attachment 6.2., Technical

Response & Evaluation Guide Sections B and C. Proposal Evaluation Team members will individually record their rankings on the applicable RFP Attachment 6.5. – Evaluator Ranking Worksheet.

- 5.2.1.4. For each Responsive Technical Response evaluated, the Solicitation Coordinator will record each Proposal Evaluation Team member's assigned rankings on RFP Attachment 6.6. Rank/Score Summary Matrix. The Solicitation Coordinator will then calculate the average rank for RFP Attachment 6.2., Technical Response & Evaluation Guide, Sections B and C. and record the average rank on the Rank/Score Summary Matrix. No Respondent will receive the same rank. The lowest average rank will receive First place and the percentage of points associated with the best rank, the second lowest rank will receive Second place and the percentage of points associated with the second best rank, and so on. The Solicitation Coordinator will then assign percentage values and points based upon the methodology in RFP section 5.2.1.5. below.
- 5.2.1.5 Point totals for each section will be assigned by the Solicitation Coordinator as detailed in the formula below. All calculations will use and result in numbers rounded to two (2) places to the right of the decimal point.

RFP Attachment 6.2-Section B Operational Summary

- 1st place: 100% of maximum section points
- 2nd place: 87.5% of maximum section points
- 3rd place: 75% of maximum section points
- 4th place: 62.5% of maximum section points
- 5th place: 50% of maximum section points

(Each rank beyond five (5) will require a reduction of twelve and a half percent (12.5%), as per the pattern above)

**RFP Attachment 6.2-Section C Technical Qualifications,
Experience & Approach Items**

- 1st place: 100% of maximum section points
- 2nd place: 87.5% of maximum section points
- 3rd place: 75% of maximum section points
- 4th place: 62.5% of maximum section points
- 5th place: 50% of maximum section points

(Each rank beyond five (5) will require a reduction of twelve and a half percent (12.5%), as per the pattern above)

Formula to derive point total:

**Decimal of percentage value chosen X Point Value of the Individual Section
For Example: 75% of 30 points will be calculated as 0.75x30.**

5.2.1.5.1. Ties In the event of a tie, a tied respondent will be awarded the percentage of maximum section points directly correlated to the rank for which they are eligible and the next non-tied respondent will receive the percentage associated with one rank removed from the otherwise next eligible rank.

For example, in the scenario in which there are three respondents and two of the respondents tie for 1st place, the two respondents tied for first would receive 100% of maximum points and the third respondent would receive 75% of maximum section points which is associated with 3rd place, as one position is occupied by two respondents.

5.2.1.6. Before Cost Proposals are opened, the Proposal Evaluation Team will review the Technical Response Evaluation record and any other available information pertinent to whether or not each Respondent is responsive and responsible. If the Proposal Evaluation Team identifies any Respondent that does not meet the responsive and responsible thresholds such that the team would not recommend the Respondent for Cost Proposal Evaluation and potential contract award, the team members will fully document the determination.

5.2.2. **Cost Proposal Evaluation.** The Solicitation Coordinator will open for evaluation the Cost Proposal of each Respondent deemed by the State to be responsive and responsible and calculate and record each Cost Proposal score in accordance with the RFP Attachment 6.3., Cost Proposal & Scoring Guide.

5.2.3. **Total Response Score.** The Solicitation Coordinator will calculate the sum of the Technical Response section scores and the Cost Proposal score and record the resulting number as the total score for the subject Response (refer to RFP Attachment 6.6., Rank/Score Summary Matrix).

5.3. Contract Award Process

5.3.1 The Solicitation Coordinator will submit the Proposal Evaluation Team determinations and scores to the head of the procuring agency for consideration along with any other relevant information that might be available and pertinent to contract award.

5.3.2. The procuring agency head will determine the apparent best-evaluated Response. To effect a contract award to a Respondent other than the one receiving the highest evaluation process score, the head of the procuring agency must provide written justification and obtain the written approval of the Chief Procurement Officer and the Comptroller of the Treasury.

5.3.3. The State will issue a Notice of Intent to Award identifying the apparent best-evaluated response and make the RFP files available for public inspection at the time and date specified in the RFP Section 2, Schedule of Events.

NOTICE: The Notice of Intent to Award shall not create rights, interests, or claims of entitlement in either the apparent best-evaluated Respondent or any other Respondent.

5.3.4. The Respondent identified as offering the apparent best-evaluated response must sign a contract drawn by the State pursuant to this RFP. The Contract shall be substantially the same as the RFP Attachment 6.7., *Pro Forma* Contract. The Respondent must sign the contract by the Contractor Signature Deadline detailed in the RFP Section 2, Schedule of Events. If the Respondent fails to provide the signed Contract by this deadline, the State may determine that the Respondent is non-responsive to this RFP and reject the response.

5.3.5. Notwithstanding the foregoing, the State may, at its sole discretion, entertain limited terms and conditions or pricing negotiations prior to Contract signing and, as a result, revise the *pro forma* contract terms and conditions or performance requirements in the State's best interests, PROVIDED THAT such revision of terms and conditions or performance requirements shall NOT materially affect the basis of response evaluations or negatively impact the competitive nature of the RFP and contractor selection process.

- 5.3.6. If the State determines that a response is non-responsive and rejects it after opening Cost Proposals, the Solicitation Coordinator will re-calculate scores for each remaining responsive Cost Proposal to determine (or re-determine) the apparent best-evaluated response.

RFP ATTACHMENT 6.1.A.**RFP # 32505-02422 STATEMENT OF CERTIFICATIONS AND ASSURANCES**

The Respondent must sign and complete the Statement of Certifications and Assurances below as required, and it must be included in the Technical Response (as required by RFP Attachment 6.2., Technical Response & Evaluation Guide, Section A, Item A.1.).

The Respondent does, hereby, expressly affirm, declare, confirm, certify, and assure ALL of the following:

1. The Respondent will comply with all of the provisions and requirements of the RFP.
2. The Respondent will provide all services as defined in the Scope of the RFP Attachment 6.7., *Pro Forma* Contract for the total Contract Term.
3. The Respondent, except as otherwise provided in this RFP, accepts and agrees to all terms and conditions set out in the RFP Attachment 6.7., *Pro Forma* Contract.
4. The Respondent acknowledges and agrees that a contract resulting from the RFP shall incorporate, by reference, all proposal responses as a part of the Contract.
5. The Respondent will comply with:
 - (a) the laws of the State of Tennessee;
 - (b) Title VI of the federal Civil Rights Act of 1964;
 - (c) Title IX of the federal Education Amendments Act of 1972;
 - (d) the Equal Employment Opportunity Act and the regulations issued there under by the federal government; and,
 - (e) the Americans with Disabilities Act of 1990 and the regulations issued there under by the federal government.
6. To the knowledge of the undersigned, the information detailed within the response submitted to this RFP is accurate.
7. The response submitted to this RFP was independently prepared, without collusion, under penalty of perjury.
8. No amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Respondent in connection with this RFP or any resulting contract.
9. Both the Technical Response and the Cost Proposal submitted in response to this RFP shall remain valid for at least 120 days subsequent to the date of the Cost Proposal opening and thereafter in accordance with any contract pursuant to the RFP.
10. The Respondent affirms the following statement, as required by the Iran Divestment Act Tenn. Code Ann. § 12-12-111: "By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each bidder is not on the list created pursuant to §12-12-106." For reference purposes, the list is currently available online at: <https://www.tn.gov/generalservices/procurement/central-procurement-office--cpo-/library-/public-information-library.html>.

By signing this Statement of Certifications and Assurances, below, the signatory also certifies legal authority to bind the proposing entity to the provisions of this RFP and any contract awarded pursuant to it. If the signatory is not the Respondent (if an individual) or the Respondent's company *President* or *Chief Executive Officer*, this document must attach evidence showing the individual's authority to bind the Respondent.

DO NOT SIGN THIS DOCUMENT IF YOU ARE NOT LEGALLY AUTHORIZED TO BIND THE RESPONDENT

SIGNATURE:

PRINTED NAME & TITLE:

DATE:

**RESPONDENT LEGAL ENTITY
NAME:**

RFP ATTACHMENT 6.1.B.

RFP # 32505-02422 Response to Legal Requirements

The Respondent must sign and complete the Response to Legal Requirements below as required, and it must be included in the Technical Response (as required by RFP Attachment 6.2., Technical Response & Evaluation Guide, Section A, Item A.3.).

The Respondent shall provide a Yes or No statement to the following scenarios. A “Yes” response indicates that the situation does apply to a Respondent and a “No” response indicates that the situation does NOT apply to a Respondent. If a Respondent answers yes, they shall provide a detailed statement describing their reason for answering Yes. Failure to disclose information may result in a response being found non-responsive or lead to immediate contract cancellation. The State, at its own discretion reserves the right to review the answers provided to the Response to Legal Requirements and deem a Respondent non-responsive. Additionally, the State reserves the right to issue clarifications to a Respondent based upon their responses.:

1. Provide a statement of whether the Respondent or, to the Respondent's knowledge, any of the Respondent's employees, agents, independent contractors, or subcontractors, involved in the delivery of goods or performance of services on a contract pursuant to this RFP, have been convicted of, pled guilty to, or pled *nolo contendere* to any felony. If so, include an explanation providing relevant details.

Yes____(provide reasoning for this answer)

No_____

2. Provide a statement of whether, in the last ten (10) years, the Respondent has filed (or had filed against it) any bankruptcy or insolvency proceeding, whether voluntary or involuntary, or undergone the appointment of a receiver, trustee, or assignee for the benefit of creditors. If so, include an explanation providing relevant details.

Yes__(provide reasoning for this answer)

No_____

3. Provide a statement of whether there is any material, pending litigation against the Respondent that the Respondent should reasonably believe could adversely affect its ability to meet contract requirements pursuant to this RFP or is likely to have a material adverse effect on the Respondent's financial condition. If such exists, list each separately, explain the relevant details, and attach the opinion of counsel addressing whether and to what extent it would impair the Respondent's performance in a contract pursuant to this RFP. NOTE: All persons, agencies, firms, or other entities that provide legal opinions regarding the Respondent must be properly licensed to render such opinions. The State may require the Respondent to submit proof of license for each person or entity that renders such opinions.

Yes__(provide reasoning for this answer)

No_____

4. Provide a statement of whether there are any pending or in progress Securities Exchange Commission investigations involving the Respondent. If such exists, list each separately, explain the relevant details, and attach the opinion of counsel addressing whether and to what extent it will impair the Respondent's performance in a contract pursuant to this RFP. NOTE: All persons, agencies, firms, or other entities that provide legal opinions regarding the Respondent must be properly licensed to render such opinions. The State may require the Respondent to submit proof of license for each person or entity that renders such opinions.

Yes__(provide reasoning for this answer)

No_____

5. Provide a statement and any relevant details addressing whether the Respondent is any of the following:
 - (a) is presently debarred, suspended, proposed for debarment, or voluntarily excluded from covered transactions by any federal or state department or agency;
 - (b) has within the past five (5) years, been convicted of, or had a civil judgment rendered against the contracting party from commission of fraud, or a criminal offence in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - (c) is presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed above; and

(d) has within a **five (5)** year period preceding the contract had one or more public transactions (federal, state, or local) terminated for cause or default.

Yes___(provide reasoning for this answer)

No_____

By signing this Response to Legal Requirements, below, the signatory also certifies legal authority to bind the proposing entity to the provisions of this RFP and any contract awarded pursuant to it. If the signatory is not the Respondent (if an individual) or the Respondent's company *President* or *Chief Executive Officer*, this document must attach evidence showing the individual's authority to bind the Respondent.

DO NOT SIGN THIS DOCUMENT IF YOU ARE NOT LEGALLY AUTHORIZED TO BIND THE RESPONDENT

SIGNATURE:

PRINTED NAME & TITLE:

DATE:

**RESPONDENT LEGAL ENTITY
NAME:**

RFP ATTACHMENT 6.2. — Section A

TECHNICAL RESPONSE & EVALUATION GUIDE

SECTION A: MANDATORY REQUIREMENTS. The Respondent must address all items detailed below and provide, in sequence, the information and documentation as required (referenced with the associated item references). The Respondent must also detail the response page number for each item in the appropriate space below.

The Solicitation Coordinator will review the response to determine if the Mandatory Requirement Items are addressed as required and mark each with pass or fail. For each item that is not addressed as required, the Proposal Evaluation Team must review the response and attach a written determination. In addition to the Mandatory Requirement Items, the Solicitation Coordinator will review each response for compliance with all RFP requirements.

RESPONDENT LEGAL ENTITY NAME:			
Response Page # (Respondent completes)	Item Ref.	Section A— Mandatory Requirement Items	Pass/Fail
		The Response must be delivered to the State no later than the Response Deadline specified in the RFP Section 2, Schedule of Events.	
		The Technical Response and the Cost Proposal documentation must be packaged separately as required (refer to RFP Section 3.2., <i>et. seq.</i>).	
		The Technical Response must NOT contain cost or pricing information of any type.	
		The Technical Response must NOT contain any restrictions of the rights of the State or other qualification of the response.	
		A Respondent must NOT submit alternate responses (refer to RFP Section 3.3.).	
		A Respondent must NOT submit multiple responses in different forms (as a prime and a subcontractor) (refer to RFP Section 3.3.).	
	A.1.	Provide the Statement of Certifications and Assurances (RFP Attachment 6.1.A.) completed and signed by an individual empowered to bind the Respondent to the provisions of this RFP and any resulting contract. The document must be signed without exception or qualification.	
	A.2.	Provide a statement, based upon reasonable inquiry, of whether the Respondent or any individual who shall cause to deliver goods or perform services under the contract has a possible conflict of interest (<i>e.g.</i> , employment by the State of Tennessee) and, if so, the nature of that conflict. NOTE: Any questions of conflict of interest shall be solely within the discretion of the State, and the State reserves the right to cancel any award.	
	A.3.	Provide the 6.1.B. Response to Legal Requirements completed and signed by an individual empowered to bind the Respondent to the veracity of the statements. Respondents answering "yes" to any of the questions in 6.1.B. must provide a detailed explanation. The State reserves the right to review the Respondent's answers provided to the 6.1.B. Response to Legal Requirements and determine whether a Respondent is responsive. Additionally, the State reserves the right to issue clarifications to a Respondent based upon their responses.	

RESPONDENT LEGAL ENTITY NAME:			
Response Page # (Respondent completes)	Item Ref.	Section A— Mandatory Requirement Items	Pass/Fail
	A.4.	Detail the name, e-mail address, mailing address, telephone number, and if applicable, facsimile number of the person the State should contact regarding the response.	
	A5.	Provide a current bank reference indicating that the Respondent's business relationship with the financial institution is in positive standing. Such reference must be written in the form of a standard business letter, signed, and dated within the past three (3) months.	
	A.6.	Provide two current positive credit references from vendors with which the Respondent has done business written in the form of standard business letters, signed, and dated within the past three (3) months.	
	A.7.	Provide an official document or letter from an accredited credit bureau, verified and dated within the last three (3) months and indicating a satisfactory credit score for the Respondent (NOTE: A credit bureau report number without the full report is insufficient and will <u>not</u> be considered responsive.)	
	A.8	Provide the respondent's active accreditation to the most current ISO/IEC 17025:2017 standards. The accreditation body of the laboratory must be a full member of the International Laboratory Accreditation Cooperation (ILAC) and a signatory to the ILAC Mutual Recognition Arrangement (MRA). The accreditation should at minimum reflect the tests required in Section A.5.of the <i>Pro Forma</i> contract.	
State Use – Solicitation Coordinator Signature, Printed Name & Date:			

RFP ATTACHMENT 6.2. — SECTION B**TECHNICAL RESPONSE & EVALUATION GUIDE**

SECTION B: OPERATIONAL SUMMARY. The Respondent shall address pertinent items detailed below and provide the information and documentation as required in order for the Operational Summary to be ranked.

Proposal Evaluation Team members will individually evaluate and assign a unique rank for each of the responses to Section B - Operational Summary. Evaluator rankings will be recorded on applicable RFP Attachment 6.5. – Evaluator Ranking Worksheet.

RESPONDENT LEGAL ENTITY NAME:		
Response Page # (Respondent completes)	Item Ref.	Section B - Operational Summary
	B.1.	<p>In three (3) pages or less and in accordance with the Response Requirements of RFP Section 3 provide an Operational Summary based upon the requirements contained herein.</p> <p>Provide a narrative describing the Respondent's experience and ability in providing the required goods or services required by this RFP. Detail how the Respondent intends to utilize their business' structure, employees and any office locations to meet the required goods or services of this RFP. Additionally provide a description of the proposed project team, its members and organizational structure, identifying key people who will be assigned to deliver the goods or services in the process. Lastly, provide a personnel roster and resumes listing the names of key people who the Respondent will assign to meet the Respondent's requirements under this RFP along with the estimated number of hours that each individual will devote to that performance. The resumes of the personnel must detail the individual's title, education, current position with the Respondent, and employment history. Resumes may be attached to the 3-page narrative, separate from the narrative.</p> <p>*Please note that Resumes will not count towards the three (3) page limit on this section*</p>

RFP ATTACHMENT 6.2. — SECTION C

TECHNICAL RESPONSE & EVALUATION GUIDE

SECTION C: TECHNICAL QUALIFICATIONS, EXPERIENCE & APPROACH. The Respondent must address all items (below) and provide, in sequence, the information and documentation as required (referenced with the associated item references). The Respondent must also detail the response page number for each item in the appropriate space below.

Proposal Evaluation Team members will individually evaluate and assign a unique rank for each of the responses to Section C - Technical Qualifications, Experience & Approach Items. Evaluator rankings will be recorded on applicable RFP Attachment 6.5. – Evaluator Ranking Worksheet.

RESPONDENT LEGAL ENTITY NAME:		
Response Page # (Respondent completes)	Item Ref.	Section C - Technical Qualifications, Experience & Approach Items
	C.1.	<p>Provide a narrative that illustrates the Respondent's understanding of the State's requirements for the testing and reporting of the results from the fuel samples submitted and project schedule.</p> <p>Provide a narrative that illustrates how the Respondent will manage the project, ensure completion of the scope of services, and accomplish required objectives within the State's project schedule.</p>
	C.2.	<p>Provide documentation of the Respondent's commitment to diversity as represented by the following:</p> <p>(a) <u>Business Strategy</u>. Provide a description of the Respondent's existing programs and procedures designed to encourage and foster commerce with business enterprises owned by minorities, women, service-disabled veterans, persons with disabilities, and small business enterprises. Please also include a list of the Respondent's certifications as a diversity business, if applicable.</p> <p>(b) <u>Business Relationships</u>. Provide a listing of the Respondent's current contracts with business enterprises owned by minorities, women, service-disabled veterans, persons with disabilities, and small business enterprises. Please include the following information:</p> <p>(i) contract description;</p> <p>(ii) contractor name and ownership characteristics (i.e., ethnicity, gender, service-disabled veteran-owned or persons with disabilities);</p> <p>(iii) contractor contact name and telephone number.</p> <p>(c) <u>Estimated Participation</u>. Provide an estimated level of participation by business enterprises owned by minorities, women, service-disabled veterans, persons with disabilities and small business enterprises if a contract is awarded to the Respondent pursuant to this RFP. Please include the following information:</p> <p>(i) a percentage (%) indicating the participation estimate. (Express the estimated participation number as a percentage of the total estimated contract value that will be dedicated to business with subcontractors and supply contractors having such ownership characteristics only and DO NOT INCLUDE DOLLAR AMOUNTS);</p> <p>(ii) anticipated goods or services contract descriptions;</p> <p>(iii) names and ownership characteristics (i.e., ethnicity, gender, service-disabled veterans, or disability) of anticipated subcontractors and supply contractors.</p> <p>NOTE: In order to claim status as a Diversity Business Enterprise under this contract, businesses must be certified by the Governor's Office of Diversity Business Enterprise (Go-DBE). Please visit the Go-DBE website at https://tn.diversitysoftware.com/FrontEnd/StartCertification.asp?TN=tn&XID=9810 for more information.</p>

RFP ATTACHMENT 6.2. — SECTION C (continued)

	<p>(d) <u>Workforce</u>. Provide the percentage of the Respondent's total current employees by ethnicity and gender.</p> <p>NOTE: Respondents that demonstrate a commitment to diversity will advance State efforts to expand opportunity to do business with the State as contractors and subcontractors. Response evaluations will recognize the positive qualifications and experience of a Respondent that does business with enterprises owned by minorities, women, service-disabled veterans, persons with disabilities, and small business enterprises and who offer a diverse workforce.</p>
	<p>C.3. Provide a statement of whether the Respondent intends to use subcontractors to meet the Respondent's requirements of any contract awarded pursuant to this RFP, and if so, detail:</p> <p>(a) the names of the subcontractors along with the contact person, mailing address, telephone number, and e-mail address for each;</p> <p>(b) a description of the scope and portions of the goods each subcontractor involved in the delivery of goods or performance of the services each subcontractor will perform; and</p> <p>(c) a statement specifying that each proposed subcontractor has expressly assented to being proposed as a subcontractor in the Respondent's response to this RFP.</p>

RFP ATTACHMENT 6.3.

COST PROPOSAL & SCORING GUIDE

NOTICE: THIS COST PROPOSAL MUST BE COMPLETED EXACTLY AS REQUIRED

COST PROPOSAL SCHEDULE— The Cost Proposal, detailed below, shall indicate the proposed price for goods or services defined in the Scope of Services of the RFP Attachment 6.7., *Pro Forma* Contract and for the entire contract period. The Cost Proposal shall remain valid for at least one hundred twenty (120) days subsequent to the date of the Cost Proposal opening and thereafter in accordance with any contract resulting from this RFP. All monetary amounts shall be in U.S. currency and limited to two (2) places to the right of the decimal point.

A maximum TOTAL Slate Price per fuel sample is requested. This is the maximum charge per sample for any combination of routine test descriptions and associated support noted in the Pro Forma Contract. The maximum charge does not need to be an arithmetic sum of the individual test description costs. Although the sum of the individual test descriptions may exceed the TOTAL Slate cost of the fuel when all tests are performed, the State shall not pay, nor shall the Contractor charge, more than the TOTAL Slate cost for each sample as set forth in the contract.

The Maximum Total Slate Price Per Sample for routine tests shall be used to calculate the score for the cost proposal.

On very limited occasions, the State may request that a sample only be tested for a certain parameter(s) when the full battery of normal tests is deemed to be unnecessary. Therefore, the State requests that prices be proposed, as a supplement to the table below, for individual tests. With this pricing structure, the State and Contractor understand that the TOTAL SLATE cost when all routine tests are conducted may not be equal to the sum of the cost of the individual tests for each product specified. In cases where the State requests individual tests on a sample, the Contractor shall charge the State either the sum of the individual tests or the maximum TOTAL Slate allowed under the contract for the product, whichever is the less. See the Pro Forma Contract Section A.3 for detailed testing requirements that cover the slate for each product.

Proposals should also include a percentage discount for any tests required by the State not included in the standard battery of tests listed in the Pro Forma Contract.

NOTICE: The Evaluation Factor associated with each cost item is for evaluation purposes only. The evaluation factors do NOT and should NOT be construed as any type of volume guarantee or minimum purchase quantity. The evaluation factors shall NOT create rights, interests, or claims of entitlement in the Respondent.

Notwithstanding the cost items herein, pursuant to the second paragraph of the *Pro Forma* Contract section C.1. (refer to RFP Attachment 6.7.), "The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract."

This Cost Proposal must be signed, in the space below, by an individual empowered to bind the Respondent to the provisions of this RFP and any contract awarded pursuant to it. If said individual is not the *President* or *Chief Executive Officer*, this document must attach evidence showing the individual's authority to legally bind the Respondent.

RESPONDENT SIGNATURE:			
PRINTED NAME & TITLE:			
DATE:			
RESPONDENT LEGAL ENTITY NAME:			
Cost Item Description	Proposed Cost	State Use Only	
		Evaluation Factor	Evaluation Cost (cost x factor)
Gasoline I Gasoline Oxygenate Blends Test Slate	\$ / Slate	27,975	

RFP ATTACHMENT 6.3. (continued)

RESPONDENT LEGAL ENTITY NAME:			
Cost Item Description	Proposed Cost	State Use Only	
		Evaluation Factor	Evaluation Cost (cost x factor)
Research Octane Number	\$ / Test	INDIVIDUAL TESTS NOT EVALUATED	
Motor Octane Number	\$ / Test		
Antiknock Index	\$ / Test		
Phase Separation/Workmanship	\$ / Test		
Distillation (all points)	\$ / Test		
Oxygenated Compounds (individual vol% and total mass % oxygen)	\$ / Test		
Vapor Pressure	\$ / Test		
Vapor – Liquid Ratio Temperature	\$ / Test		
Drivability Index	\$ / Test		
Relative Density (Report as Required for Other Tests)	\$ / Test		
Diesel (Biodiesel < 6 %) Slate	\$ / Slate	8,375	
Distillation (all points)	\$ / Test	INDIVIDUAL TESTS NOT EVALUATED	
Flash Point	\$ / Test		
Sulfur	\$ / Test		
Cetane Number	\$ / Test		
Cetane Index	\$ / Test		

RFP ATTACHMENT 6.3. (continued)

RESPONDENT LEGAL ENTITY NAME:			
Cost Item Description	Proposed Cost	State Use Only	
		Evaluation Factor	Evaluation Cost (cost x factor)
Water & Sediment	\$ / Test	INDIVIDUAL TESTS NOT EVALUATED	
Relative Density (Report as Required for Other Tests)	\$ / Test		
Biodiesel Fatty Acid Methyl Ester (FAME) Content	\$ / Test		
Cold Temperature Operability	\$ / Test		
Lubricity	\$ / Test		
Haze Rating	\$ / Test		
Water, Karl Fischer (KF) Titration	\$ / Test		
Particle Counts	\$ / Test		
Diesel (Biodiesel 6-20%) Slate	\$ / Slate	750	
Distillation (all points)	\$ / Test	INDIVIDUAL TESTS NOT EVALUATED	
Flash Point	\$ / Test		
Sulfur	\$ / Test		
Cetane Number	\$ / Test		
Cetane Index	\$ / Test		
Water & Sediment	\$ / Test		
Relative Density (Report as Required for Other Tests)	\$ / Test		

RFP ATTACHMENT 6.3. (continued)

RESPONDENT LEGAL ENTITY NAME:			
Cost Item Description	Proposed Cost	State Use Only	
		Evaluation Factor	Evaluation Cost (cost x factor)
Biodiesel (FAME) Content	\$ / Test	INDIVIDUAL TESTS NOT EVALUATED	
Cold Temperature Operability	\$ / Test		
Acid No.	\$ / Test		
Oxidation Stability	\$ / Test		
Water, KF Titration	\$ / Test		
Particle Units	\$ / Test		
Kerosene/Fuel Oils Slate	\$ / Slate	2,000	
Distillation	\$ / Test	INDIVIDUAL TESTS NOT EVALUATED	
Sulfur	\$ / Test		
Flash Point	\$ / Test		
Water & Sediment	\$ / Test		
Saybolt Color (Kerosene Only)	\$ / Test		
Relative Density (Report as Required for Other Tests)	\$ / Test		
Aviation Gasoline Slate	\$ / Slate	250	
Knock Value, lean mixture (MON & ALN reported)	\$ / Test	INDIVIDUAL TESTS NOT EVALUATED	

RFP ATTACHMENT 6.3. (continued)

RESPONDENT LEGAL ENTITY NAME:			
Cost Item Description	Proposed Cost	State Use Only	
		Evaluation Factor	Evaluation Cost (cost x factor)
Distillation (all points)	\$ / Test	INDIVIDUAL TESTS NOT EVALUATED	
Vapor Pressure	\$ / Test		
Water Reaction	\$ / Test		
Density	\$ / Test		
Oxidation Stability	\$ / Test		
Aviation Turbine Fuel Slate	\$ / Slate	250	
Distillation (all points)	\$ / Test	INDIVIDUAL TESTS NOT EVALUATED	
Flash Point	\$ / Test		
Freeze Point	\$ / Test		
Density	\$ / Test		
Thermal Stability	\$ / Test		
Existent Gum	\$ / Test		
FAME Content	\$ / Test		
Biodiesel Blending Stock Slate	\$ / Slate	500	
Metals (Ca, Mg, Na, K)	\$ / Test	INDIVIDUAL TESTS NOT EVALUATED	

RFP ATTACHMENT 6.3. (continued)

RESPONDENT LEGAL ENTITY NAME:			
Cost Item Description	Proposed Cost	State Use Only	
		Evaluation Factor	Evaluation Cost (cost x factor)
Flash Point	\$ / Test		
Methanol Content	\$ / Test		
Water & Sediment	\$ / Test		
Kinematic Viscosity	\$ / Test		
Sulfated Ash	\$ / Test		
Cu Strip Corrosion	\$ / Test		
Cetane No.	\$ / Test		
Carbon Residue	\$ / Test		
Acid No.	\$ / Test		
Cold Soak Filterability	\$ / Test		
Total & Free Glycerin (Also report Mono, Di, & Tri Glycerides)	\$ / Test		
Phosphorus Content	\$ / Test		
Distillation Temperature (all points)	\$ / Test		
Oxidation Stability	\$ / Test		
Cloud Point	\$ / Test		
Relative Density (Report as Required for Other Tests)	\$ / Test		
		INDIVIDUAL TESTS NOT EVALUATED	

RFP ATTACHMENT 6.3. (continued)

RESPONDENT LEGAL ENTITY NAME:			
Cost Item Description	Proposed Cost	State Use Only	
		Evaluation Factor	Evaluation Cost (cost x factor)
Denatured Fuel Ethanol Slate	\$ / Slate	500	
Ethanol & Methanol Content	\$ / Test	INDIVIDUAL TESTS NOT EVALUATED	
Gum, Washed & Unwashed	\$ / Test		
Water	\$ / Test		
Inorganic Chloride & Sulfate	\$ / Test		
Copper	\$ / Test		
Acidity	\$ / Test		
pHe	\$ / Test		
Relative Density (Reports as Required for Other Tests)	\$ / Test		
Ethanol Flex Fuel Slate	\$ / Slate		
Ethanol & Methanol Content	\$ / Test	INDIVIDUAL TESTS NOT EVALUATED	
Vapor Pressure	\$ / Test		
Gum, Washed & Unwashed	\$ / Test		
pHe	\$ / Test		
Inorganic Chloride	\$ / Test		
Water	\$ / Test		

RFP ATTACHMENT 6.3. (continued)

RESPONDENT LEGAL ENTITY NAME:			
Cost Item Description	Proposed Cost	State Use Only	
		Evaluation Factor	Evaluation Cost (cost x factor)
Relative Density (Reports as Required for Other Tests)	\$ _____ / Test		
Liquefied Petroleum Gas Slate	\$ _____ / Slate	50	
Compositional Analysis	\$ _____ / Test	INDIVIDUAL TESTS AND CATALOG NOT EVALUATED	
Sulfur	\$ _____ / Test		
Relative Density (calculated from D2163 data)	\$ _____ / Test		
Vapor Pressure (Calculated from D2163 data)	\$ _____ / Test		
Moisture Content	\$ _____ / Test		
Miscellaneous Tests, Various Fuel Products: Percentage Discount from Catalogue Prices, not to be used as part of cost evaluation.	_____ % Discount		
EVALUATION COST AMOUNT (sum of evaluation costs above): The Solicitation Coordinator will use this sum and the formula below to calculate the Cost Proposal Score. Numbers rounded to two (2) places to the right of the decimal point will be standard for calculations.			
lowest evaluation cost amount from <u>all</u> proposals _____ evaluation cost amount being evaluated		x 35 (maximum section score)	= SCORE:
<i>State Use – Solicitation Coordinator Signature, Printed Name & Date:</i>			

REFERENCE QUESTIONNAIRE

The standard reference questionnaire provided on the following pages of this attachment should be completed by all individuals offering a reference for the Respondent.

The Respondent will be solely responsible for obtaining completed reference questionnaires as detailed below.. Provide references from individuals who are not current State employees of the procuring State Agency for projects similar to the goods or services sought under this RFP and which represent:

- two (2) contracts Respondent currently services that are similar in size and scope to the services required by this RFP; and
- three (3) completed contracts that are similar in size and scope to the services required by this RFP.

References from at least three (3) different individuals are required to satisfy the requirements above, e.g., an individual may provide a reference about a completed project and another reference about a currently serviced account. The individual contact reference provided for each contract or project shall not be a current State employee of the procuring State agency. Procuring State agencies that accept references from another State agency shall document, in writing, a plan to ensure that no contact is made between the procuring State agency and a referring State agency. The standard reference questionnaire, should be used and completed, and is provided on the next page of this RFP Attachment 6.4.

In order to obtain and submit the completed reference questionnaires following one of the two processes below.

Written:

- (a) Add the Respondent's name to the standard reference questionnaire at RFP Attachment 6.4. and make a copy for each reference.
- (b) Send a reference questionnaire and new, standard #10 envelope to each reference.
- (c) Instruct the reference to:
 - (i) complete the reference questionnaire;
 - (ii) sign and date the completed reference questionnaire;
 - (iii) seal the completed, signed, and dated reference questionnaire within the envelope provided;
 - (iv) sign his or her name in ink across the sealed portion of the envelope; and
 - (v) return the sealed envelope directly to the Respondent (the Respondent may wish to give each reference a deadline, such that the Respondent will be able to collect all required references in time to include them within the sealed Technical Response).
- (d) Do NOT open the sealed references upon receipt.
- (e) Enclose all sealed reference envelopes within a larger, labeled envelope for inclusion in the Technical Response as required.

Email:

- (a) Add the Respondent's name to the standard reference questionnaire at RFP Attachment 6.4. and make a copy for each reference.
- (b) E-mail a reference questionnaire to each reference.
- (c) Instruct the reference to:
 - (i) complete the reference questionnaire;
 - (ii) sign and date the completed reference questionnaire;
 - (iii) E-mail the reference directly to the Solicitation Coordinator by the RFP Technical Response Deadline with the Subject line of the e-mail as "[Respondent's Name] Reference for RFP # 32505-02422".

NOTES:

- The State will not accept late references or references submitted by any means other than the two which are described above, and each reference questionnaire submitted must be completed as required.
- The State will not review more than the number of required references indicated above.

- While the State will base its reference check on the contents of the reference e-mails or sealed reference envelopes included in the Technical Response package, the State reserves the right to confirm and clarify information detailed in the completed reference questionnaires, and may consider clarification responses in the evaluation of references.
- The State is under no obligation to clarify any reference information.

RFP # 32505-02422 REFERENCE QUESTIONNAIRE

REFERENCE SUBJECT: RESPONDENT NAME (completed by Respondent before reference is requested)

The “reference subject” specified above, intends to submit a response to the State of Tennessee in response to the Request for Proposals (RFP) indicated. As a part of such response, the reference subject must include a number of completed and sealed reference questionnaires (using this form).

Each individual responding to this reference questionnaire is asked to follow these instructions:

- complete this questionnaire (either using the form provided or an exact duplicate of this document);
- sign and date the completed questionnaire and follow either process outlined below;

Physical:

- seal the completed, signed, and dated questionnaire in a new standard #10 envelope;
- sign in ink across the sealed portion of the envelope; and
- return the sealed envelope containing the completed questionnaire directly to the reference subject.

E-Mail:

- e-mail the completed questionnaire to:
Josh Polk; Joshua.Polk@tn.gov

(1) What is the name of the individual, company, organization, or entity responding to this reference questionnaire?

(2) Please provide the following information about the individual completing this reference questionnaire on behalf of the above-named individual, company, organization, or entity.

NAME:	
TITLE:	
TELEPHONE #	
E-MAIL ADDRESS:	

(3) What goods or services does/did the reference subject provide to your company or organization?

(4) If the goods or services that the reference subject provided to your company or organization are completed, were the goods or services provided in compliance with the terms of the contract, on time, and within budget? If not, please explain.

(5) If the reference subject is still providing goods or services to your company or organization, are these goods or services being provided in compliance with the terms of the contract, on time, and within budget? If not, please explain.

(6) How satisfied are you with the reference subject's ability to perform based on your expectations and according to the contractual arrangements?

REFERENCE SIGNATURE:

(by the individual completing this request for reference information)

(must be the same as the signature across the envelope seal)

DATE:

EVALUATOR RANKING WORKSHEET – TECHNICAL RESPONSE

Section B Operational Summary

Proposal Evaluation Team members will individually evaluate and assign below a unique rank for each of the identified responses to Section B — Operational Summary.

State Use -Evaluator Identification:	
Company Name	Ordinal Rank 1,2,3
<i>Respondent 1</i>	Rank Number
<i>Respondent 2</i>	Rank Number
<i>Respondent 3</i>	Rank Number

Section C Technical Qualifications, Experience and Approach Items

State Evaluator will individually evaluate and assign below a unique rank for each Respondent's response to Section C — Technical Qualifications, Experience and Approach Items

State Use-Evaluator Identification:	
Company Name	Ordinal Rank 1,2,3
<i>Respondent 1</i>	Rank Number
<i>Respondent 2</i>	Rank Number
<i>Respondent 3</i>	Rank Number

State Use-Solicitation Coordinator Signature, Printed Name and Date

Rank/Score Summary Matrix

	RESPONDENT 1		RESPONDENT 2		RESPONDENT 3	
OPERATIONAL SUMMARY: (max section points: 25)						
<i>Evaluator 1</i>						
<i>Evaluator 2</i>						
<i>Evaluator 3</i>						
	AVERAGE RANK:		AVERAGE RANK:		AVERAGE RANK:	
Percentage of maximum section points 1 st Place = 100% 2 nd Place = 87.5 % 3 rd Place = 75% (decrease by 12.5% for each further respondent)	Points Awarded based upon Average Rank		Points Awarded based upon Average Rank		Points Awarded based upon Average Rank	
TECHNICAL QUALIFICATIONS, EXPERIENCE & APPROACH (max section points: 40)						
<i>Evaluator 1</i>						
<i>Evaluator 2</i>						
<i>Evaluator 3</i>						
	AVERAGE RANK:		AVERAGE RANK:		AVERAGE RANK:	
Percentage of maximum section points 1 st Place = 100% 2 nd Place = 87.5 % 3 rd Place = 75% (decrease by 12.5% for each further respondent)	Points Awarded based upon Average Rank		Points Awarded based upon Average Rank		Points Awarded based upon Average Rank	
COST PROPOSAL: (max section points: 35)	SCORE:		SCORE:		SCORE:	
TOTAL RESPONSE EVALUATION SCORE: (maximum points: 100)						
<i>Solicitation Coordinator Signature, Printed Name & Date:</i>						

RFP # 32505-02422 PRO FORMA CONTRACT

The *Pro Forma* Contract detailed in following pages of this exhibit contains some “blanks” (signified by descriptions in capital letters) that will be completed with appropriate information in the final contract resulting from the RFP.

**CONTRACT
BETWEEN THE STATE OF TENNESSEE,
DEPARTMENT OF AGRICULTURE
AND
CONTRACTOR NAME**

This Contract, by and between the State of Tennessee, Department of Agriculture ("State") and Contractor Legal Entity Name ("Contractor"), is for the provision LABORATORY TESTING OF ENGINE AND HEATING FUELS, REPORTING OF RESULTS, AND RELATED SUPPORT SERVICES, as further defined in the "SCOPE." State and Contractor may be referred to individually as a "Party" or collectively as the "Parties" to this Contract.

The Contractor is a/an Individual, For-Profit Corporation, Non-Profit Corporation, Special Purpose Corporation Or Association, Partnership, Joint Venture, Or Limited Liability Company.
Contractor Place of Incorporation or Organization: Location
Contractor Edison Registration ID # Number

A. SCOPE:

- A.1. The Contractor shall provide all goods or services and deliverables as required, described, and detailed below and shall meet all service and delivery timelines as specified by this Contract.
- A.2. Definitions
- a. ASTM shall mean American Society for Testing and Material. ASTM sets all accuracy and testing requirements for the tests contained within this contract.
 - b. EN shall mean European Standards
 - c. Data Management Software refers to TDA's current HealthSpace Agile system, as well as the new TraceFirst system currently in development.
- A.3. Laboratory Analysis - Routine Testing Scope Requirements

The following summarizes the requirements of the routine analytical scope of tests that shall be performed by the Contractor on each product sample submitted by the State unless otherwise requested, with exceptions as noted. The Contractor shall adhere to the most recently published edition of each test method (ATSM or EN), unless otherwise specified by the State.

- a. The requirements for laboratory analysis of gasoline and gasoline oxygenate blends shall be as follows:

Gasoline and Gasoline Oxygenate Blends	Test Methods
Research Octane Number	ASTM D2699
Motor Octane Number	ASTM D2700
Antiknock Index	R+M/2
Phase Separation/Workmanship	ASTM 04814
Distillation (all points)	ASTM D86
Oxygenated Compounds (Individual vol% and total mass % oxygen)	ASTM D4815
Vapor Pressure	ASTM 05191
Vapor- Liquid Ratio Temperature	ASTM 05188
Drivability Index	ASTM 04814
Relative Density (Report as Required for Other Tests)	ASTM D1298 or ASTM D4052

- b. The requirements for the laboratory analysis of diesel fuel shall be as follows:

Diesel (Biodiesel < 6 %)	Test Method
------------------------------------	--------------------

Distillation (all points)	ASTM 086
Flash Point	ASTM D93
Sulfur	ASTM 05453
<i>Cetane Number*</i>	ASTM 0613 or ASTM D6890 or ASTM D7170
Cetane Index	ASTM D4737
Water & Sediment	ASTM D2709
Relative Density (Report as Required for Other Tests)	ASTM 01298 or ASTM D4052
Biodiesel Fatty Acid Methyl Ester (FAME) Content	ASTM D7371
<i>Cold Temperature Operability**</i>	ASTM D2500 & ASTM D4539
<i>Lubricity***</i>	ASTM D6079
Haze Rating	ASTM 04176
<i>Water, Karl Fischer (KF) Titration****</i>	ASTM D6304 or ASTM E1064
<i>Particle Counts*****</i>	ASTM D7596

1. *Cetane Number shall be reported on samples where the Cetane Index calculation is less than or equal to forty three (43) and on any sample certified or otherwise required to meet a minimum cetane number above forty (40). If test methods D6890 or D7170 are used to perform this test, and a sample test result does not conform to the specification, test method D613 must be performed to validate the result.*
 2. *Cold Temperature Operability shall be performed on twenty percent (20%) of samples collected October – March when biodiesel is detected through test method D7371. ASTM D2500 shall be performed first. If ASTM D2500 fails to meet state standards, D4539 shall be performed. In addition, ASTM D4539 shall be performed on forty percent (40%) of the samples selected for cold temperature verification.*
 3. *Lubricity shall perform on fifteen percent (15%) of the diesel samples submitted. The State will provide direction on the samples to be tested.*
 4. *Water by KF Titration shall be performed on fifteen percent (15%) of the diesel samples submitted. The State will provide direction on the samples to be tested.*
 5. *Particle Counts shall be performed on ten percent (10%) of the diesel samples submitted. The State will provide direction on the samples to be tested.*
- c. The requirements for laboratory analysis of kerosene and fuel oils shall be as followed.

Kerosene/Fuel Oils	Test Method
Distillation (all points)	ASTM D86
Sulfur	ASTM D5453
Flash Point	ASTM D56
Water & Sediment	ASTM D2709
Saybolt Color (kerosene Only)	ASTM D156
Relative Density (Report as Required for Other Tests)	ASTM D1298 or ASTM D4052

- d. The requirements for laboratory analysis of aviation turbine fuel shall be as follows:

Aviation Turbine Fuel	Test Method
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Distillation (all points)	ASTM D86 (Group 4 with the cooler set to the Group 3 temperature, as defined by ATSM standards)
Flash Point	ASTM D56
Freeze Point	ASTM D2386 or ASTM D5972
Density	ASTM D1298 or ASTM D4052
Thermal Stability	ASTM D3241 Annex A2 or A3, as defined by ATSM standards
Existent Gum	ASTM D381
FAME Content	ASTM D7797

- e. The requirements for laboratory analysis of aviation gasoline shall be as follows:

Aviation Gasoline	Test Method
Knock Value, lean mixture (MON & ALN reported)	ASTM D2700
Distillation (all points)	ASTM D86
Vapor Pressure	ASTM D5191
Water Reaction	ASTM D1094
Density	ASTM D1298 or ASTM D4052
Oxidation Stability	ASTM D873

- f. The requirements for laboratory analysis of liquefied petroleum gas shall be as follows:

Liquefied Petroleum Gas	Test Method
Compositional Analysis	ASTM D2163
Sulfur	ASTM D2784 or ASTM D6667
Relative Density (Calculated from D 2163 data)	ASTM D2598
Vapor Pressure (calculated from D 2163 data)	ASTM D2598
Moisture Content	ASTM D2713

- g. The requirements for laboratory analysis of biodiesel blending stock shall be as follows:

Biodiesel Blending Stock	Testing Method
Metals (Ca, Mg, Na, K)	EN 14538
Flash Point	ASTM D93
<i>Methanol Content*</i>	EN 14110
Water & Sediment	ASTM D2709
Kinematic viscosity	ASTM D445
Sulfated Ash	ASTM D874
Sulfur	ASTM D5453
Cu Strip Corrosion	ASTM D130
<i>Cetane No**</i>	ASTM D613 or ASTM D6890 or ATSM D7170
Carbon Residue	ASTM D4530
Acid No.	ASTM D664
Cold Soak Filterability	ASTM D7501
Total & Free Glycerin (Also report Mono, Di, & Tri Glycerides)	ASTM D6584
Phosphorus Content	ASTM D4951
Distillation Temperature (all points)	ASTM D1160
Oxidation Stability	EN 15751
Cloud Point	ASTM D2500
Relative Density (Report as Required for Other Tests)	ASTM D1298 or ASTM D4052

1. *Methanol Content will be reported on samples with flash points above 93 °C and below 130 °C.*
2. *If D6890 or D7170 is used to perform this test, and a sample test result does not conform to the specification, D613 must be reported to validate the result.*

h. The requirements for laboratory analysis of biodiesel blends shall be as follows:

Diesel Fuel (Biodiesel 6-20%)	Test Method
Distillation (all points)	ASTM D86
Flash Point	ASTM D93
Sulfur	ASTM D5453
<i>Cetane Number*</i>	ASTM D613 or ATSM D890 or ATSM D7170
Cetane Index	ASTM D4737
Water & Sediment	ASTM D2709
Relative Density (Report as Required for Other Tests)	ASTM D1298 or ASTM D4052
Biodiesel (FAME) Content	ASTM D7371
<i>Cold Temperature operability**</i>	ASTM D2500 and ASTM D4539
Acid No.	ASTM D664
Oxidation Stability	EN 15751
Water, KF Titration	ASTM D6304 or ATSM E1064
Particle Counts	ASTM D7596

1. *Cetane Number shall ONLY be reported on samples where the Cetane Index calculation is less than or equal to forty three (43) and on any sample certified or otherwise required to meet a minimum cetane number above forty (40). If test methods D6890 or D7170 are used to perform this test, and a sample test result does not conform to the specification, then test method D613 must be performed to validate the result.*
2. *Cold Temperature operability shall be performed on samples collected October – March. Both test methods D2500 and D4539 test shall be reported.*

i. The requirements for laboratory analysis of ethanol flex fuel shall be as follows:

Ethanol Flex Fuel	Test Method
Ethanol & Methanol Content	ASTM D5501
Vapor Pressure	ASTM D5191
Acidity	ASTM D1613
Gum, Washed & Unwashed	ASTM D381
pH _e	ASTM D6423
Inorganic Chloride	ASTM D7328 or ASTM D7319
Water	ASTM E203 or ASTM E1064
Relative Density (Report as Required for Other Tests)	ASTM D1298 or ASTM D4052

j. The requirements for laboratory analysis of denatured fuel ethanol shall be as follows:

Denatured Fuel Ethanol	Test Method
Ethanol & Methanol Content	ASTM D5501
Gum, Washed & Unwashed	ASTM D381
Water	ASTM E203 or ASTM E1064
Inorganic Chloride & Sulfate	ASTM D7328 or ASTM D7319

Copper	ASTM D1688*
Acidity	ASTM D1613**
pHe	ASTM D6423
Relative Density (Report as Required for Other Tests)	ASTM D1298 or ASTM D4052

A.4. Hand Blending of Samples in the Laboratory

The Contractor shall make hand blends of samples, as necessary, to simulate the final product that is being verified by laboratory testing. Hand blending of gasoline and gasoline blendstocks with denatured fuel ethanol, biodiesel with diesel fuel, or base fuels with other fuel extenders shall be performed using the procedures contained within ASTM D7717.

A.5. Laboratory Facilities and Performance

The Contractor shall accurately perform all testing, as defined by ATSM standards, at a laboratory facility agreed upon in writing by the State. At any time during the contract period, the State may request the Contractor to obtain current inspection data that provides confirmation that the facility is in compliance with any and all regulatory safety and health requirements and provide such inspection data to the State, provided that the information is not requested more than once annually.

As of the effective date of this contract and upon request of the State, the laboratory must have and provide evidence to the State that the laboratory is currently accredited to the most current ISO/IEC 17025:2017 standards. The accreditation body of the laboratory must be a full member of the International Laboratory Accreditation Cooperation (ILAC) and a signatory to the ILAC Mutual Recognition Arrangement (MRA). At a minimum, the scope of accreditation must cover the following tests:

Vapor Pressure, ASTM D5191
 Vapor-Liquid Ratio, ASTM D5188
 Density, Relative Density, and API Gravity, ASTM D4052
 Distillation, ASTM D86
 Sulfur, ASTM D5453
 Sulfur, ASTM D4294
 Oxygenates, ASTM D4815
 Flash Point, ASTM D93
 Research Octane Number, ASTM D2699
 Motor Octane Number, ASTM D2700
 Anti-knock Index, ASTM D4815 X1.4

All Non-Conformances detected on any test procedure within the scope of this contract shall be reported to the State via email within ten days of identification. The Non-Conformance will include Root Cause Analysis and Corrective Actions as described in ISO/IEC 17025:2017 8.5 Actions to address risks and opportunities (Option A) and 8.7 Corrective Actions (Option A).

Upon request, the laboratory must provide objective evidence to the State that the quality control procedures for any test methods being performed under this contract that are not covered under the ISO/IEC 17025 scope of accreditation are being performed under a quality management system which incorporates management and technical requirements of ISO/IEC 17025:2017 that is documented in a Quality Manual and associated procedures that include: calibration and maintenance of equipment; analyses are performed using validated and verified test procedures; Documentation of sample traceability; documentation of analytical results and analysts performing work; analysts that are trained and authorized to perform technical procedures; and periodic audits. The system must also include

(a) a documented process that defines the activities necessary to take corrective action when non-conforming work occurs; including root cause analysis and recording of investigations into root cause;

(b) a document control procedure that assures documents issued to personnel are current, suitable, and reviewed and approved by authorized personnel prior to release. The procedure must also assure that obsolete documents are removed from use;

(c) documented record keeping process that assures that records of original observations and data collection are maintained and sufficient to establish traceability of test results to sample handling and storage, to sample analysis including data collection, to equipment calibration and maintenance, and to the review of test results prior to release;

(d) a documented process to assure that reference materials and reference cultures used are fit for purpose, are not outdated, and are traceable to a lot number or other unique identifier;

(e) a documented process to assure that the laboratory participates in relevant and available proficiency testing activities.

A.6. **Shipping of Samples to Third Party Laboratory**

At the request of and at no extra cost to the State, the Contractor shall be responsible for shipping, samples identified by the State to a mutually agreeable third party laboratory as a means of performance verification. If the parties are unable to mutually agree, the State, in its sole discretion, shall have the sole authority to determine the third party laboratory.

A.7. **State Owned Equipment**

The State shall provide the Contractor with a Low Temperature Flow Test (LTFT) unit that complies with ASTM D4539. The unit shall only be used for samples as authorized by the State. The Contractor shall use this test equipment to meet the LTFT Cold Flow testing requirements. The State shall be responsible for the cost of replacement parts and maintenance that must be performed by the equipment manufacturer. The Contractor shall be responsible for proper operation, routine maintenance of the unit and provide standard consumables necessary for continuous operation of the equipment in accordance with the instrument's manufacturer manuals.

A.8. **Laboratory Inspection and Audits**

The State shall be granted access within one (1) business day to the Contractor's laboratory facility during normal business hours to inspect, audit, or otherwise confirm that the laboratory is operating under satisfactory standards and adequately performing the duties of this contract. The Contractor shall invite the State to participate and observe in all laboratory audits and submit to the State the results of any audits (internal and external) conducted on the laboratory during the term of this contract.

A.9. **Laboratory Operation Hours**

The Contractor shall maintain functional laboratory hours necessary to comply with the requirements of this contract. In addition, to ensure availability of information to the State, the Contractor shall designate an individual that shall be the primary contact between the State and the Contractor's laboratory. This individual shall be the laboratory or administrative manager for the Contractor's laboratory. The Contractor's primary contact shall routinely be available for consultation on matters directly related to this contract between the hours of 8:00 am and 4:30pm (local time) each Monday through Friday, excluding State holidays.

A.10. **Proficiency Test Program Participation**

The Contractor shall maintain an active status in at least one (1) regional exchange group recognized and accepted by the engine fuels industry and where Research Octane Number and Motor Octane Number are contained in the test parameters. Additionally, the contractor shall

participate in the following ASTM Interlaboratory Crosscheck Programs: Reformulated Gasoline; No. 2 Diesel; Biodiesel; Fuel Ethanol. The Contractor shall provide the State with all results of exchange samples within seven (7) days after the Contractor receives the statistical data from the exchange group statistician for each sample tested. This includes the raw data received from the exchange group in addition to any summary data compiled by the Contractor. If the Contractor's data is deemed an outlier, a nonconformance report including root cause analysis and corrective actions shall be provided to the State within fourteen (14) days of the Contractor's receipt of the exchange data. The report must be conclusive and clearly state in narrative form the corrective measures being taken by the Contractor.

A.11. **Delivery of Samples to Contractor**

The State shall deliver sample sets to the Contractor laboratory if the laboratory is operating within the Metropolitan Nashville area. Samples will be delivered directly to the local laboratory a minimum of two (2) days per week and up to (5) days per week, unless holidays or unusual circumstances prevent the normal delivery of samples. The laboratory must maintain flexible hours that will ensure a laboratory representative is on duty and available to receive the samples. The samples will be inspected and logged into the laboratory at the time of delivery for purposes of chain of custody documentation.

If the Contractor performs services outside the Nashville Metropolitan area, the Contractor shall be responsible for arranging shipment from Ellington Agricultural Center to the Contractor's laboratory. The Contractor shall be additionally responsible for all sample shipping details, including packing samples and associated paperwork. The State will provide sample sets a minimum of two (2) days per week and up to four (4) days per week for pick-up at Ellington Agricultural Center or other mutually agreeable sites at mutually agreeable times, unless holidays or unusual circumstances prevent the normal delivery of samples. The Contractor shall be responsible for ensuring that the chain of custody is preserved on all shipped samples, whether to a contractor's laboratory or to an approved subcontractor and that they are shipped in a timely manner that will allow the Contractor to meet the turnaround requirements of A.12.

A.12. **Reporting of Results**

The Contractor shall review analytical results for accuracy and report to the State such accurate analytical results for each sample submitted by the State within four (4) business days after the sample has been released to the Contractor. A sample shall be considered released to the Contractor after delivery to the laboratory operating in the Nashville Metropolitan area or delivered to any Contractor representative designated to coordinate shipment of samples to a laboratory outside the Nashville Metropolitan area.

The Contractor shall be responsible for evaluating the test results obtained on each sample against product specifications adopted as State standards. These standards can be found in State of Tennessee Department of Agriculture Rules 0080-05-12 and TCA 47-18-13. The State shall be contacted by either telephone or e-mail immediately upon the determination that a sample test parameter has failed any state standard. Each result shall indicate the compliance status of each specification parameter in a format dictated by the data management software supplied by the State.

Any parameter result reported that will result in a non-compliant sample will be tested a minimum of two (2) times for the parameter in question before the results are reported to the State. When a test method allows for more than one procedure, the procedure generally considered the most precise and reliable must be used to confirm that a sample is out of specification. If there is more than one procedure and the Contractor is unsure which procedure to follow, the Contractor must seek guidance from the State.

The requirements for use of and connection to the TDA Licensing & Permitting System(s) shall be as follows:

- a) To remain in sync with the Fuel Quality Program, the Contractor shall enter results into the existing State vendor portal through 03/31/2023 and begin using the new CoreOne LCP system on the target go-live date of 04/03/2023. The State, at its sole discretion, may instruct the Contractor to continue to enter results into the existing State vendor portal until a later date.
- b) The Contractor shall ensure that transmitted results update the Petroleum Sample Results form, without requiring manual entry by TDA staff.
- c) The Contractor shall participate in the testing of the new system, CoreOne LCP, with vendor Trace First, prior to the go-live date of April 3, 2023.
- d) The Contractor and all data centers used by the Contractor to host State data, including those of all Subcontractors, must comply with the State's Enterprise Information Security Policies as amended periodically. The State's Enterprise Information Security Policies document is found at the following URL:
<https://www.tn.gov/finance/strategic-technology-solutions/strategic-technology-solutions/sts-security-policies.html>.
- e) The Contractor agrees to maintain the Application so that it will run on a current, manufacturer-supported Operating System. "Operating System" shall mean the software that supports a computer's basic functions, such as scheduling tasks, executing applications, and controlling peripherals.
- f) If the Application requires middleware or database software, Contractor shall maintain middleware and database software versions that are at all times fully compatible with current versions of the Operating System and Application to ensure that security vulnerabilities are not introduced.

A.13. **Sampling Materials**

The Contractor shall supply all equipment needed to perform sampling of engine fuel and heating fuel products for each of approximately twenty-five (25) State inspectors. Minimum equipment shall include sample containers appropriate for sampling from fuel dispensing nozzles, bottles for sampling from terminal shore tanks or other appropriate sampling points, bottle catchers as needed, aluminum bottle carriers, rope, caps, inner seals, sample tags with attachment ties, sample integrity seals, pencil thieves (aka pencil bombs) and any other equipment and supplies mandatory for proper sampling and chain of custody preservation. All equipment and supplies must meet ASTM D4057, ASTM D5842, and when applicable, United States Environmental Protection Agency specifications. The Contractor shall be responsible for the proper disposition of any disposable items, such as cans or bottles, after the value of such items are depleted. The Contractor shall provide for the State's approval, it's processes for cleaning of any sampling equipment that could be used more than once and could affect sample results. All reusable sampling equipment becomes property of the State upon termination of this contract.

A.14. **Retention of Samples and Sample Retain Disposition**

All sample residuals shall be retained for a minimum of fourteen (14) days after the final data is reported to the State. Any samples that fail to comply with State specifications on any test shall be retained until authorization for disposal is granted by the State in writing.

After the sample retention period expires, the Contractor shall:

- (1) Be responsible for proper disposal of the fuel as waste material in accordance with state, federal and/or local laws and regulations, with a monthly summary of disposition to accompany each invoice.

(2) Convey the fuel as reprocessing feedstock and monthly subtract the revenue received from such conveyance from the invoice submitted to the State for services rendered. A monthly summary shall accompany each invoice.

The State will direct the laboratory as to which of the above options shall be exercised at any time during the contract period.

No employee of the Contractor may use any portion of the samples for their personal use. However, the Contractor may use the fuel for warm-up and maintenance verification of test equipment, e.g. octane engines.

Upon expiration or termination of this contract, all samples then being retained shall be delivered to such locations as the State may direct, FOB Contractors facility. At the direction of the State, the Contractor may dispose of all such samples, regardless of any prior retention policies or instructions.

A.15. Witnesses

At no extra cost to the State, the Contractor shall make competent, responsible personnel available as necessary to serve as witnesses in connection with legal enforcement action. The Contractor shall provide all witnesses necessary to testify to proper custody transfer and testing. When deemed necessary by the State, the witness shall possess the education, knowledge, and experience necessary to qualify as an "Expert Witness".

A.16. Workshop

The Contractor shall provide one (1) workshop for approximately twenty-five (25) employees of the Tennessee Department of Agriculture. The workshop shall include, as a minimum, topics covering

- 1) sampling of fuel products covered under this contract,
- 2) hazardous materials handling that is applicable to the job of inspector and transporter of limited quantity samples, and
- 3) general safety practices.

The contractor shall provide each State participant with a manual that covers the content of the presentation. The workshop shall be conducted at the Ellington Agricultural Center, Nashville, Tennessee or other agreed upon locations at dates and times mutually agreeable between the State and the Contractor. Each participant shall be provided with documentation of workshop participation.

A.17. Non-Routine Testing

The Contractor shall provide a catalog of non-routine testing on samples submitted. Revised catalog prices must be provided to the state by July 1, or at every interval where prices are amended, whichever occurs first, throughout the duration of this contract.

- A.18. Warranty.** Contractor represents and warrants that the term of the warranty ("Warranty Period") shall be the greater of the Term of this Contract or any other warranty generally offered by Contractor, its suppliers, or manufacturers to customers of its goods or services. The goods or services provided under this Contract shall conform to the terms and conditions of this Contract throughout the Warranty Period. Any nonconformance of the goods or services to the terms and conditions of this Contract shall constitute a "Defect" and shall be considered "Defective." If Contractor receives notice of a Defect during the Warranty Period, then Contractor shall correct the Defect, at no additional charge.

Contractor represents and warrants that the State is authorized to possess and use all equipment, materials, software, and deliverables provided under this Contract.

Contractor represents and warrants that all goods or services provided under this Contract shall be provided in a timely and professional manner, by qualified and skilled individuals, and in conformity with standards generally accepted in Contractor's industry.

If Contractor fails to provide the goods or services as warranted, then Contractor will re-provide the goods or services at no additional charge. If Contractor is unable or unwilling to re-provide the goods or services as warranted, then the State shall be entitled to recover the fees paid to Contractor for the Defective goods or services. Any exercise of the State's rights under this Section shall not prejudice the State's rights to seek any other remedies available under this Contract or applicable law.

- A.19. **Inspection and Acceptance.** The State shall have the right to inspect all goods or services provided by Contractor under this Contract. If, upon inspection, the State determines that the goods or services are Defective, the State shall notify Contractor, and Contractor shall re-deliver the goods or provide the services at no additional cost to the State. If after a period of thirty (30) days following delivery of goods or performance of services the State does not provide a notice of any Defects, the goods or services shall be deemed to have been accepted by the State.

B. TERM OF CONTRACT:

This Contract shall be effective on DATE ("Effective Date") and extend for a period of sixty (60) months after the Effective Date ("Term"). The State shall have no obligation for goods or services provided by the Contractor prior to the Effective Date.

C. PAYMENT TERMS AND CONDITIONS:

- C.1. **Maximum Liability.** In no event shall the maximum liability of the State under this Contract exceed Written Dollar Amount (\$Number) ("Maximum Liability"). This Contract does not grant the Contractor any exclusive rights. The State does not guarantee that it will buy any minimum quantity of goods or services under this Contract. Subject to the terms and conditions of this Contract, the Contractor will only be paid for goods or services provided under this Contract after a purchase order is issued to Contractor by the State or as otherwise specified by this Contract.
- C.2. **Compensation Firm.** The payment methodology in Section C.3. of this Contract shall constitute the entire compensation due the Contractor for all goods or services provided under this Contract regardless of the difficulty, materials or equipment required. The payment methodology includes all applicable taxes, fees, overhead, and all other direct and indirect costs incurred or to be incurred by the Contractor.
- C.3. **Payment Methodology.** The Contractor shall be compensated based on the payment methodology for goods or services authorized by the State in a total amount as set forth in Section C.1.
- a. The Contractor's compensation shall be contingent upon the satisfactory provision of goods or services as set forth in Section A.
 - b. The Contractor shall be compensated based upon the following payment methodology:

Goods or Services Description	Amount (per compensable increment)
Gasoline I Gasoline Oxygenate Blends Test Slate Price	\$ Number per slate

Individual Tests	
Research Octane Number	\$ Number per test
Motor Octane Number	\$ Number per test
Antiknock Index	\$ Number per test
Phase Separation/Workmanship	\$ Number per test
Distillation (all points)	\$ Number per test
Oxygenated Compounds (individual vol% and total mass % Oxygen)	\$ Number per test
Vapor Pressure	\$ Number per test
Vapor- Liquid Ratio Temperature	\$ Number per test
Drivability Index	\$ Number per test
Relative Density (Report as Required for Other Tests)	\$ Number per test
Diesel (Biodiesel < 6%) Slate Price	\$ Number per slate
Individual Tests	
Distillation (all points)	\$ Number per test
Flash Point	\$ Number per test
Sulfur	\$ Number per test
Cetane Number	\$ Number per test
Cetane Index	\$ Number per test
Water & Sediment	\$ Number per test
Relative Density (Report as Required for Other Tests)	\$ Number per test
Biodiesel (FAME) Content	\$ Number per test
Cold Temperature Operability	\$ Number per test
Lubricity	\$ Number per test
Haze Rating	\$ Number per test
Water, KF Titration	\$ Number per test
Particle Counts	\$ Number per test
Diesel Fuel (Biodiesel 6-20%) Slate	\$ Number per slate
Individual Tests	
Distillation (all points)	\$ Number per test
Flash Point	\$ Number per test
Sulfur	\$ Number per test
Cetane Number	\$ Number per test
Cetane Index	\$ Number per test
Water & Sediment	\$ Number per test
Relative Density (Report as Required for Other Tests)	\$ Number per test

Biodiesel (FAME) Content	\$ Number per test
Cold Temperature	\$ Number per test
Acid No.	\$ Number per test
Oxidation Stability	\$ Number per test
Water, KF Titration	\$ Number per test
Particle Counts	\$ Number per test
Kerosene/Fuel Oils Slate Price	\$ Number per slate
Individual Tests	
Distillation	\$ Number per test
Sulfur	\$ Number per test
Flash Point	\$ Number per test
Water & Sediment	\$ Number per test
Saybolt Color (Kerosene Only)	\$ Number per test
Relative Density (Report as Required for Other Tests)	\$ Number per test
Aviation Gasoline Slate Price	\$ Number per slate
Individual Tests	
Knock Value, lean mixture (MON & ALN reported)	\$ Number per test
Distillation (all points)	\$ Number per test
Vapor Pressure	\$ Number per test
Water Reaction	\$ Number per test
Density	\$ Number per test
Oxidation Stability	\$ Number per test
Aviation Turbine Fuel Slate Price	\$ Number per slate
Individual Tests	
Distillation (all points)	\$ Number per test
Flash Point	\$ Number per test
Freeze Point	\$ Number per test
Density	\$ Number per test
Thermal Stability	\$ Number per test
Existent Gum	\$ Number per test
FAME Content	\$ Number per test
Biodiesel Blending Stock Slate Price	\$ Number per slate
Individual Tests	

Metals (Ca, Mg, Na, K)	\$ Number per test
Flash Point	\$ Number per test
Methanol Content	\$ Number per test
Water & Sediment	\$ Number per test
Kinematic Viscosity	\$ Number per test
Sulfated Ash	\$ Number per test
Cu Strip Corrosion	\$ Number per test
Cetane No.	\$ Number per test
Carbon Residue	\$ Number per test
Acid No.	\$ Number per test
Cold Soak Filterability	\$ Number per test
Total & Free Glycerin (Also report Mono, Di, & Tri Glycerides)	\$ Number per test
Phosphorus Content	\$ Number per test
Distillation Temperature (all points)	\$ Number per test
Oxidation Stability	\$ Number per test
Cloud Point	\$ Number per test
Relative Density (Reported as Required for Other Tests)	\$ Number per test
Denatured Fuel Ethanol Slate Price	\$ Number per slate
Individual Tests	
Ethanol & Methanol Content	\$ Number per test
Gum, Washed & Unwashed	\$ Number per test
Water	\$ Number per test
Inorganic Chloride & Sulfate	\$ Number per test
Copper	\$ Number per test
Acidity	\$ Number per test
pHe	\$ Number per test
Relative Density (Report as Required for Other Tests)	\$ Number per test
Ethanol Flex Fuel Slate Price	\$ Number per slate
Individual Tests	
Ethanol & Methanol	\$ Number per test
Vapor Pressure	\$ Number per test
Gum, Washed & Unwashed	\$ Number per test
pHe	\$ Number per test
Inorganic Chloride	\$ Number per test
Water	\$ Number per test

Relative Density (Report as Required for Other Tests)	\$ Number per test
Liquified Petroleum Gas Slate Price	\$ Number per slate
Individual Tests	
Compositional Analysis	\$ Number per test
Sulfur	\$ Number per test
Relative Density (calculated from D2163 data)	\$ Number per test
Vapor Pressure (calculated from D2163 data)	\$ Number per test
Moisture Content	\$ Number per test
Miscellaneous Tests, Various Fuel Products:	Number %
Percentage Discount from Catalogue Prices	

C.4. Travel Compensation. The Contractor shall not be compensated or reimbursed for travel time, travel expenses, meals, or lodging.

C.5. Invoice Requirements. The Contractor shall invoice the State only for goods delivered and accepted by the State or services satisfactorily provided at the amounts stipulated in Section C.3., above. Contractor shall submit invoices and necessary supporting documentation, no more frequently than once a month, and no later than thirty (30) days after goods or services have been provided to the following address:

Tennessee Department of Agriculture
Consumer & Industry Services Division
ATTN: Brianne Adams
436 Hogan Road
Nashville, TN 37220
Brianne.Adams@tn.gov

a. Each invoice, on Contractor's letterhead, shall clearly and accurately detail all of the following information (calculations must be extended and totaled correctly):

- (1) Invoice number (assigned by the Contractor);
- (2) Invoice date;
- (3) Contract number (assigned by the State);
- (4) Customer account name: Tennessee Department of Agriculture & Consumer & Industry Services Division;
- (5) Customer account number (assigned by the Contractor to the above-referenced Customer);
- (6) Contractor name;
- (7) Contractor Tennessee Edison registration ID number;
- (8) Contractor contact for invoice questions (name, phone, or email);
- (9) Contractor remittance address;
- (10) Description of delivered goods or services provided and invoiced, including identifying information as applicable;
- (11) Number of delivered or completed units, increments, hours, or days as applicable, of each good or service invoiced;
- (12) Applicable payment methodology (as stipulated in Section C.3.) of each good or service invoiced;
- (13) Amount due for each compensable unit of good or service; and
- (14) Total amount due for the invoice period.

b. Contractor's invoices shall:

- (1) Only include charges for goods delivered or services provided as described in Section A and in accordance with payment terms and conditions set forth in Section C;
- (2) Only be submitted for goods delivered or services completed and shall not include any charge for future goods to be delivered or services to be performed;
- (3) Not include Contractor's taxes, which includes without limitation Contractor's sales and use tax, excise taxes, franchise taxes, real or personal property taxes, or income taxes; and
- (4) Include shipping or delivery charges only as authorized in this Contract.

c. The timeframe for payment (or any discounts) begins only when the State is in receipt of an invoice that meets the minimum requirements of this Section C.5.

C.6. Payment of Invoice. A payment by the State shall not prejudice the State's right to object to or question any payment, invoice, or other matter. A payment by the State shall not be construed as acceptance of goods delivered, any part of the services provided, or as approval of any amount invoiced.

C.7. Invoice Reductions. The Contractor's invoice shall be subject to reduction for amounts included in any invoice or payment that is determined by the State, on the basis of audits conducted in accordance with the terms of this Contract, to not constitute proper compensation for goods delivered or services provided.

C.8. Deductions. The State reserves the right to deduct from amounts, which are or shall become due and payable to the Contractor under this or any contract between the Contractor and the State of Tennessee, any amounts that are or shall become due and payable to the State of Tennessee by the Contractor.

C.9. Prerequisite Documentation. The Contractor shall not invoice the State under this Contract until the State has received the following, properly completed documentation.

- a. The Contractor shall complete, sign, and present to the State the "Authorization Agreement for Automatic Deposit Form" provided by the State. By doing so, the Contractor acknowledges and agrees that, once this form is received by the State, payments to the Contractor, under this or any other contract the Contractor has with the State of Tennessee, may be made by ACH; and
- b. The Contractor shall complete, sign, and return to the State the State-provided W-9 form. The taxpayer identification number on the W-9 form must be the same as the Contractor's Federal Employer Identification Number or Social Security Number referenced in the Contractor's Edison registration information.

D. MANDATORY TERMS AND CONDITIONS:

D.1. Required Approvals. The State is not bound by this Contract until it is duly approved by the Parties and all appropriate State officials in accordance with applicable Tennessee laws and regulations. Depending upon the specifics of this Contract, this may include approvals by the Commissioner of Finance and Administration, the Commissioner of Human Resources, the Comptroller of the Treasury, and the Chief Procurement Officer. Approvals shall be evidenced by a signature or electronic approval.

D.2. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Contract shall be in writing and shall be made by certified, first class mail, return receipt requested and postage prepaid, by overnight courier service with an asset tracking system, or by email or facsimile transmission with recipient confirmation. All communications, regardless of method of transmission, shall be addressed to

the respective Party at the appropriate mailing address, facsimile number, or email address as stated below or any other address provided in writing by a Party.

The State:

Mark Hanes, Weights & Measures Administrator
 TN Department of Agriculture
 Consumer & Industry Services Division
 440 Hogan Rd,
 Nashville, TN 37220
 mark.hanes@tn.gov
 Telephone 615-837-5145
 FAX 615-837-5330

The Contractor:

Contractor Contact Name & Title
 Contractor Name
 Address
 Email Address
 Telephone # Number
 FAX # Number

All instructions, notices, consents, demands, or other communications shall be considered effective upon receipt or recipient confirmation as may be required.

- D.3. Modification and Amendment. This Contract may be modified only by a written amendment signed by all Parties and approved by all applicable State officials.
- D.4. Subject to Funds Availability. The Contract is subject to the appropriation and availability of State or federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the State reserves the right to terminate this Contract upon written notice to the Contractor. The State's exercise of its right to terminate this Contract shall not constitute a breach of Contract by the State. Upon receipt of the written notice, the Contractor shall cease all work associated with the Contract. If the State terminates this Contract due to lack of funds availability, the Contractor shall be entitled to compensation for all conforming goods requested and accepted by the State and for all satisfactory and authorized services completed as of the termination date. Should the State exercise its right to terminate this Contract due to unavailability of funds, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages of any description or amount.
- D.5. Termination for Convenience. The State may terminate this Contract for convenience without cause and for any reason. The State shall give the Contractor at least thirty (30) days written notice before the termination date. The Contractor shall be entitled to compensation for all conforming goods delivered and accepted by the State or for satisfactory, authorized services completed as of the termination date. In no event shall the State be liable to the Contractor for compensation for any goods neither requested nor accepted by the State or for any services neither requested by the State nor satisfactorily performed by the Contractor. In no event shall the State's exercise of its right to terminate this Contract for convenience relieve the Contractor of any liability to the State for any damages or claims arising under this Contract.
- D.6. Termination for Cause. If the Contractor fails to properly perform its obligations under this Contract in a timely or proper manner, or if the Contractor materially violates any terms of this Contract ("Breach Condition"), the State shall have the right to immediately terminate the Contract and withhold payments in excess of compensation for completed services or provided goods. Notwithstanding the above, the Contractor shall not be relieved of liability to the State for damages sustained by virtue of any Breach Condition and the State may seek other remedies allowed at law or in equity for breach of this Contract.

D.7. Assignment and Subcontracting. The Contractor shall not assign this Contract or enter into a subcontract for any of the goods or services provided under this Contract without the prior written approval of the State. Notwithstanding any use of the approved subcontractors, the Contractor shall be the prime contractor and responsible for compliance with all terms and conditions of this Contract. The State reserves the right to request additional information or impose additional terms and conditions before approving an assignment of this Contract in whole or in part or the use of subcontractors in fulfilling the Contractor's obligations under this Contract.

D.8. Conflicts of Interest. The Contractor warrants that no part of the Contractor's compensation shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Contractor in connection with any work contemplated or performed under this Contract.

The Contractor acknowledges, understands, and agrees that this Contract shall be null and void if the Contractor is, or within the past six (6) months has been, an employee of the State of Tennessee or if the Contractor is an entity in which a controlling interest is held by an individual who is, or within the past six (6) months has been, an employee of the State of Tennessee.

D.9. Nondiscrimination. The Contractor hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Contractor on the grounds of handicap or disability, age, race, creed, color, religion, sex, national origin, or any other classification protected by federal or state law. The Contractor shall, upon request, show proof of nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.

D.10. Prohibition of Illegal Immigrants. The requirements of Tenn. Code Ann. § 12-3-309 addressing the use of illegal immigrants in the performance of any contract to supply goods or services to the state of Tennessee, shall be a material provision of this Contract, a breach of which shall be grounds for monetary and other penalties, up to and including termination of this Contract.

- a. The Contractor agrees that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract. The Contractor shall reaffirm this attestation, in writing, by submitting to the State a completed and signed copy of the document at Attachment 1, semi-annually during the Term. If the Contractor is a party to more than one contract with the State, the Contractor may submit one attestation that applies to all contracts with the State. All Contractor attestations shall be maintained by the Contractor and made available to State officials upon request.
- b. Prior to the use of any subcontractor in the performance of this Contract, and semi-annually thereafter, during the Term, the Contractor shall obtain and retain a current, written attestation that the subcontractor shall not knowingly utilize the services of an illegal immigrant to perform work under this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant to perform work under this Contract. Attestations obtained from subcontractors shall be maintained by the Contractor and made available to State officials upon request.
- c. The Contractor shall maintain records for all personnel used in the performance of this Contract. Contractor's records shall be subject to review and random inspection at any reasonable time upon reasonable notice by the State.
- d. The Contractor understands and agrees that failure to comply with this section will be subject to the sanctions of Tenn. Code Ann. § 12-3-309 for acts or omissions occurring after its effective date.

- e. For purposes of this Contract, "illegal immigrant" shall be defined as any person who is not: (i) a United States citizen; (ii) a Lawful Permanent Resident; (iii) a person whose physical presence in the United States is authorized; (iv) allowed by the federal Department of Homeland Security and who, under federal immigration laws or regulations, is authorized to be employed in the U.S.; or (v) is otherwise authorized to provide services under the Contract.
- D.11. Records. The Contractor shall maintain documentation for all charges under this Contract. The books, records, and documents of the Contractor, for work performed or money received under this Contract, shall be maintained for a period of five (5) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon reasonable notice by the State, the Comptroller of the Treasury, or their duly appointed representatives. The financial statements shall be prepared in accordance with generally accepted accounting principles.
- D.12. Monitoring. The Contractor's activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.
- D.13. Progress Reports. The Contractor shall submit brief, periodic, progress reports to the State as requested.
- D.14. Strict Performance. Failure by any Party to this Contract to require, in any one or more cases, the strict performance of any of the terms, covenants, conditions, or provisions of this Contract shall not be construed as a waiver or relinquishment of any term, covenant, condition, or provision. No term or condition of this Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the Parties.
- D.15. Independent Contractor. The Parties shall not act as employees, partners, joint venturers, or associates of one another. The Parties are independent contracting entities. Nothing in this Contract shall be construed to create an employer/employee relationship or to allow either Party to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one Party are not employees or agents of the other Party.
- D.16. Patient Protection and Affordable Care Act. The Contractor agrees that it will be responsible for compliance with the Patient Protection and Affordable Care Act ("PPACA") with respect to itself and its employees, including any obligation to report health insurance coverage, provide health insurance coverage, or pay any financial assessment, tax, or penalty for not providing health insurance. The Contractor shall indemnify the State and hold it harmless from any costs to the State arising from Contractor's failure to fulfill its PPACA responsibilities for itself or its employees.
- D.17. Limitation of State's Liability. The State shall have no liability except as specifically provided in this Contract. In no event will the State be liable to the Contractor or any other party for any lost revenues, lost profits, loss of business, decrease in the value of any securities or cash position, time, goodwill, or any indirect, special, incidental, punitive, exemplary or consequential damages of any nature, whether based on warranty, contract, statute, regulation, tort (including but not limited to negligence), or any other legal theory that may arise under this Contract or otherwise. The State's total liability under this Contract (including any exhibits, schedules, amendments or other attachments to the Contract) or otherwise shall under no circumstances exceed the Maximum Liability. This limitation of liability is cumulative and not per incident.
- D.18. Limitation of Contractor's Liability. In accordance with Tenn. Code Ann. § 12-3-701, the Contractor's liability for all claims arising under this Contract shall be limited to an amount equal to two (2) times the Maximum Liability amount detailed in Section C.1. and as may be amended, PROVIDED THAT in no event shall this Section limit the liability of the Contractor for: (i) intellectual property or any Contractor indemnity obligations for infringement for third-party intellectual property rights; (ii) any claims covered by any specific provision in the Contract providing for liquidated damages; or (iii) any claims for intentional torts, criminal acts, fraudulent

conduct, or acts or omissions that result in personal injuries or death. For clarity, except as otherwise expressly set forth in this Section, Contractor's indemnification obligations and other remedies available under this Contract are subject to the limitations on liability set forth in this Section.

- D.19. Hold Harmless. The Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims, liabilities, losses, and causes of action which may arise, accrue, or result to any person, firm, corporation, or other entity which may be injured or damaged as a result of acts, omissions, or negligence on the part of the Contractor, its employees, or any person acting for or on its or their behalf relating to this Contract. The Contractor further agrees it shall be liable for the reasonable cost of attorneys' fees, court costs, expert witness fees, and other litigation expenses for the State to enforce the terms of this Contract.

In the event of any suit or claim, the Parties shall give each other immediate notice and provide all necessary assistance to respond. The failure of the State to give notice shall only relieve the Contractor of its obligations under this Section to the extent that the Contractor can demonstrate actual prejudice arising from the failure to give notice. This Section shall not grant the Contractor, through its attorneys, the right to represent the State in any legal matter, as the right to represent the State is governed by Tenn. Code Ann. § 8-6-106.

- D.20. HIPAA Compliance. The State and Contractor shall comply with obligations under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), Health Information Technology for Economic and Clinical Health ("HITECH") Act and any other relevant laws and regulations regarding privacy (collectively the "Privacy Rules"). The obligations set forth in this Section shall survive the termination of this Contract.

- a. Contractor warrants to the State that it is familiar with the requirements of the Privacy Rules, and will comply with all applicable requirements in the course of this Contract.
- b. Contractor warrants that it will cooperate with the State, including cooperation and coordination with State privacy officials and other compliance officers required by the Privacy Rules, in the course of performance of the Contract so that both parties will be in compliance with the Privacy Rules.
- c. The State and the Contractor will sign documents, including but not limited to business associate agreements, as required by the Privacy Rules and that are reasonably necessary to keep the State and Contractor in compliance with the Privacy Rules. This provision shall not apply if information received or delivered by the parties under this Contract is NOT "protected health information" as defined by the Privacy Rules, or if the Privacy Rules permit the parties to receive or deliver the information without entering into a business associate agreement or signing another document.
- d. The Contractor will indemnify the State and hold it harmless for any violation by the Contractor or its subcontractors of the Privacy Rules. This includes the costs of responding to a breach of protected health information, the costs of responding to a government enforcement action related to the breach, and any fines, penalties, or damages paid by the State because of the violation.

- D.21. Tennessee Consolidated Retirement System. Subject to statutory exceptions contained in Tenn. Code Ann. §§ 8-36-801, *et seq.*, the law governing the Tennessee Consolidated Retirement System ("TCRS"), provides that if a retired member of TCRS, or of any superseded system administered by TCRS, or of any local retirement fund established under Tenn. Code Ann. §§ 8-35-101, *et seq.*, accepts State employment, the member's retirement allowance is suspended during the period of the employment. Accordingly and notwithstanding any provision of this Contract to the contrary, the Contractor agrees that if it is later determined that the true nature of the working relationship between the Contractor and the State under this Contract is that of "employee/employer" and not that of an independent contractor, the Contractor, if a retired

member of TCRS, may be required to repay to TCRS the amount of retirement benefits the Contractor received from TCRS during the Term.

- D.22. Tennessee Department of Revenue Registration. The Contractor shall comply with all applicable registration requirements contained in Tenn. Code Ann. §§ 67-6-601 – 608. Compliance with applicable registration requirements is a material requirement of this Contract.
- D.23. Debarment and Suspension. The Contractor certifies, to the best of its knowledge and belief, that it, its current and future principals, its current and future subcontractors and their principals:
- a. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency;
 - b. have not within a three (3) year period preceding this Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;
 - c. are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed in section b. of this certification; and
 - d. have not within a three (3) year period preceding this Contract had one or more public transactions (federal, state, or local) terminated for cause or default.

The Contractor shall provide immediate written notice to the State if at any time it learns that there was an earlier failure to disclose information or that due to changed circumstances, its principals or the principals of its subcontractors are excluded, disqualified, or presently fall under any of the prohibitions of sections a-d.

- D.24. Force Majeure. “Force Majeure Event” means fire, flood, earthquake, elements of nature or acts of God, wars, riots, civil disorders, rebellions or revolutions, acts of terrorism or any other similar cause beyond the reasonable control of the Party except to the extent that the non-performing Party is at fault in failing to prevent or causing the default or delay, and provided that the default or delay cannot reasonably be circumvented by the non-performing Party through the use of alternate sources, workaround plans or other means. A strike, lockout or labor dispute shall not excuse either Party from its obligations under this Contract. Except as set forth in this Section, any failure or delay by a Party in the performance of its obligations under this Contract arising from a Force Majeure Event is not a default under this Contract or grounds for termination. The non-performing Party will be excused from performing those obligations directly affected by the Force Majeure Event, and only for as long as the Force Majeure Event continues, provided that the Party continues to use diligent, good faith efforts to resume performance without delay. The occurrence of a Force Majeure Event affecting Contractor’s representatives, suppliers, subcontractors, customers or business apart from this Contract is not a Force Majeure Event under this Contract. Contractor will promptly notify the State of any delay caused by a Force Majeure Event (to be confirmed in a written notice to the State within one (1) day of the inception of the delay) that a Force Majeure Event has occurred, and will describe in reasonable detail the nature of the Force Majeure Event. If any Force Majeure Event results in a delay in Contractor’s performance longer than forty-eight (48) hours, the State may, upon notice to Contractor: (a) cease payment of the fees for the affected obligations until Contractor resumes performance of the affected obligations; or (b) immediately terminate this Contract or any purchase order, in whole or in part, without further payment except for fees then due and payable. Contractor will not increase its charges under this Contract or charge the State any fees other than those provided for in this Contract as the result of a Force Majeure Event.

- D.25. State and Federal Compliance. The Contractor shall comply with all State and federal laws and regulations applicable to Contractor in the Contractor's performance of this Contract.
- D.26. Governing Law. This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee, without regard to its conflict or choice of law rules. The Tennessee Claims Commission or the state or federal courts in Tennessee shall be the venue for all claims, disputes, or disagreements arising under this Contract. The Contractor acknowledges and agrees that any rights, claims, or remedies against the State of Tennessee or its employees arising under this Contract shall be subject to and limited to those rights and remedies available under Tenn. Code Ann. §§ 9-8-101 - 408.
- D.27. Entire Agreement. This Contract is complete and contains the entire understanding between the Parties relating to its subject matter, including all the terms and conditions of the Parties' agreement. This Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the Parties, whether written or oral.
- D.28. Severability. If any terms and conditions of this Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions of this Contract shall not be affected and shall remain in full force and effect. The terms and conditions of this Contract are severable.
- D.29. Headings. Section headings of this Contract are for reference purposes only and shall not be construed as part of this Contract.
- D.30. Incorporation of Additional Documents. Each of the following documents is included as a part of this Contract by reference. In the event of a discrepancy or ambiguity regarding the Contractor's duties, responsibilities, and performance under this Contract, these items shall govern in order of precedence below:
- a. any amendment to this Contract, with the latter in time controlling over any earlier amendments;
 - b. this Contract with any attachments or exhibits (excluding the items listed at subsections c. through f., below), which includes Attachment 1;
 - c. any clarifications of or addenda to the Contractor's proposal seeking this Contract;
 - d. the State solicitation, as may be amended, requesting responses in competition for this Contract;
 - e. any technical specifications provided to proposers during the procurement process to award this Contract; and
 - f. the Contractor's response seeking this Contract.
- D.31. Iran Divestment Act. The requirements of Tenn. Code Ann. § 12-12-101, *et seq.*, addressing contracting with persons as defined at Tenn. Code Ann. §12-12-103(5) that engage in investment activities in Iran, shall be a material provision of this Contract. The Contractor certifies, under penalty of perjury, that to the best of its knowledge and belief that it is not on the list created pursuant to Tenn. Code Ann. § 12-12-106.
- D.32. Insurance. Contractor shall maintain insurance coverage as specified in this Section. The State reserves the right to amend or require additional insurance coverage, coverage amounts, and endorsements required under this Contract. Contractor's failure to maintain or submit evidence of insurance coverage, as required, is a material breach of this Contract. If Contractor loses insurance coverage, fails to renew coverage, or for any reason becomes uninsured during the Term, Contractor shall immediately notify the State. All insurance companies providing coverage must be: (a) acceptable to the State; (b) authorized by the Tennessee Department of Commerce and Insurance ("TDCI"); and (c) rated A- / VII or better by A.M. Best. All coverage must be on a primary basis and noncontributory with any other insurance or self-insurance carried by the State. Contractor agrees to name the State as an additional insured on any insurance policy with the exception of workers' compensation (employer liability) and professional liability (errors and omissions) insurance. All policies must contain an endorsement for a waiver of subrogation in favor of the State. Any deductible or self-insured retention ("SIR") over fifty thousand dollars (\$50,000) must be approved by the State. The deductible or SIR and any premiums are the

Contractor's sole responsibility. The Contractor agrees that the insurance requirements specified in this Section do not reduce any liability the Contractor has assumed under this Contract including any indemnification or hold harmless requirements.

To achieve the required coverage amounts, a combination of an otherwise deficient specific policy and an umbrella policy with an aggregate meeting or exceeding the required coverage amounts is acceptable. For example: If the required policy limit under this Contract is for two million dollars (\$2,000,000) in coverage, acceptable coverage would include a specific policy covering one million dollars (\$1,000,000) combined with an umbrella policy for an additional one million dollars (\$1,000,000). If the deficient underlying policy is for a coverage area without aggregate limits (generally Automobile Liability and Employers' Liability Accident), Contractor shall provide a copy of the umbrella insurance policy documents to ensure that no aggregate limit applies to the umbrella policy for that coverage area. In the event that an umbrella policy is being provided to achieve any required coverage amounts, the umbrella policy shall be accompanied by an endorsement at least as broad as the Insurance Services Office, Inc. (also known as "ISO") "Noncontributory—Other Insurance Condition" endorsement or shall be written on a policy form that addresses both the primary and noncontributory basis of the umbrella policy if the State is otherwise named as an additional insured.

Contractor shall provide the State a certificate of insurance ("COI") evidencing the coverages and amounts specified in this Section. The COI must be on a form approved by the TDCI (standard ACORD form preferred). The COI must list each insurer's National Association of Insurance Commissioners (NAIC) number and be signed by an authorized representative of the insurer. The COI must list the State of Tennessee – CPO Risk Manager, 312 Rosa L. Parks Ave., 3rd floor Central Procurement Office, Nashville, TN 37243 as the certificate holder. Contractor shall provide the COI ten (10) business days prior to the Effective Date and again thirty (30) calendar days before renewal or replacement of coverage. Contractor shall provide the State evidence that all subcontractors maintain the required insurance or that subcontractors are included under the Contractor's policy. At any time, the State may require Contractor to provide a valid COI. The Parties agree that failure to provide evidence of insurance coverage as required is a material breach of this Contract. If Contractor self-insures, then a COI will not be required to prove coverage. Instead Contractor shall provide a certificate of self-insurance or a letter, on Contractor's letterhead, detailing its coverage, policy amounts, and proof of funds to reasonably cover such expenses. The State reserves the right to require complete copies of all required insurance policies, including endorsements required by these specifications, at any time.

The State agrees that it shall give written notice to the Contractor as soon as practicable after the State becomes aware of any claim asserted or made against the State, but in no event later than thirty (30) calendar days after the State becomes aware of such claim. The failure of the State to give notice shall only relieve the Contractor of its obligations under this Section to the extent that the Contractor can demonstrate actual prejudice arising from the failure to give notice. This Section shall not grant the Contractor or its insurer, through its attorneys, the right to represent the State in any legal matter, as the right to represent the State is governed by Tenn. Code Ann. § 8-6-106.

The insurance obligations under this Contract shall be: (1)—all the insurance coverage and policy limits carried by the Contractor; or (2)—the minimum insurance coverage requirements and policy limits shown in this Contract; whichever is greater. Any insurance proceeds in excess of or broader than the minimum required coverage and minimum required policy limits, which are applicable to a given loss, shall be available to the State. No representation is made that the minimum insurance requirements of the Contract are sufficient to cover the obligations of the Contractor arising under this Contract. The Contractor shall obtain and maintain, at a minimum, the following insurance coverages and policy limits.

a. Commercial General Liability ("CGL") Insurance

- 1) The Contractor shall maintain CGL, which shall be written on an ISO Form CG 00 01 occurrence form (or a substitute form providing equivalent coverage) and

shall cover liability arising from property damage, premises and operations products and completed operations, bodily injury, personal and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract).

The Contractor shall maintain single limits not less than one million dollars (\$1,000,000) per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this policy or location of occurrence or the general aggregate limit shall be twice the required occurrence limit.

b. Workers' Compensation and Employer Liability Insurance

- 1) For Contractors statutorily required to carry workers' compensation and employer liability insurance, the Contractor shall maintain:
 - i. Workers' compensation in an amount not less than one million dollars (\$1,000,000) including employer liability of one million dollars (\$1,000,000) per accident for bodily injury by accident, one million dollars (\$1,000,000) policy limit by disease, and one million dollars (\$1,000,000) per employee for bodily injury by disease.
- 2) If the Contractor certifies that it is exempt from the requirements of Tenn. Code Ann. §§ 50-6-101 – 103, then the Contractor shall furnish written proof of such exemption for one or more of the following reasons:
 - i. The Contractor employs fewer than five (5) employees;
 - ii. The Contractor is a sole proprietor;
 - iii. The Contractor is in the construction business or trades with no employees;
 - iv. The Contractor is in the coal mining industry with no employees;
 - v. The Contractor is a state or local government; or
 - vi. The Contractor self-insures its workers' compensation and is in compliance with the TDCI rules and Tenn. Code Ann. § 50-6-405.

c. Automobile Liability Insurance

- 1) The Contractor shall maintain automobile liability insurance which shall cover liability arising out of any automobile (including owned, leased, hired, and non-owned automobiles).
- 2) The Contractor shall maintain bodily injury/property damage with a limit not less than one million dollars (\$1,000,000) per occurrence or combined single limit.

d. Professional Liability Insurance

- i. Professional liability insurance shall be written on an occurrence basis or on a claims-made basis. If this coverage is written on a claims-made basis, then:
 1. The retroactive date must be shown, and must be on or before the earlier of the Effective Date of the Contract or the beginning of Contract work or provision of goods and services;

2. Insurance must be maintained and evidence of insurance must be provided for at least five (5) full years from the date of the final Contract payment; and
3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date on or prior to the Contract Effective Date, the Contractor must purchase "extended reporting" or "tail coverage" for a minimum of five (5) full years from the date of the final Contract payment.

- ii. Any professional liability insurance policy shall have a limit not less than one million dollars (\$1,000,000) per claim and two million dollars (\$2,000,000) in the aggregate; and
- iii. If the Contract involves the provision of services by medical professionals, a policy limit not less than three million (\$3,000,000) per claim and three million dollars (\$3,000,000) in the aggregate for medical malpractice insurance.

D.33. Major Procurement Contract Sales and Use Tax. Pursuant to Tenn. Code Ann. § 4-39-102 and to the extent applicable, the Contractor and the Contractor's subcontractors shall remit sales and use taxes on the sales of goods or services that are made by the Contractor or the Contractor's subcontractors and that are subject to tax.

D.34. Confidentiality of Records. Strict standards of confidentiality of records and information shall be maintained in accordance with applicable state and federal law. All material and information, regardless of form, medium or method of communication, provided to the Contractor by the State or acquired by the Contractor on behalf of the State that is regarded as confidential under state or federal law shall be regarded as "Confidential Information." Nothing in this Section shall permit Contractor to disclose any Confidential Information, regardless of whether it has been disclosed or made available to the Contractor due to intentional or negligent actions or inactions of agents of the State or third parties. Confidential Information shall not be disclosed except as required or permitted under state or federal law. Contractor shall take all necessary steps to safeguard the confidentiality of such material or information in conformance with applicable state and federal law.

The obligations set forth in this Section shall survive the termination of this Contract.

D.35. Boycott of Israel. The Contractor certifies that it is not currently engaged in, and covenants that it will not, for the duration of the Contract, engage in a Boycott of Israel, as that term is defined in Public Chapter No. 775

E. SPECIAL TERMS AND CONDITIONS:

- E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Contract, the special terms and conditions shall be subordinate to the Contract's other terms and conditions.
- E.2. Contractor Commitment to Diversity. The Contractor shall comply with and make reasonable business efforts to exceed the commitment to diversity represented by the Contractor's Response to RFP 32505-02422 (RFP Attachment 6.2 – Section C) and resulting in this Contract.

The Contractor shall assist the State in monitoring the Contractor's performance of this commitment by providing, as requested, a monthly report of participation in the performance of this Contract by small business enterprises and businesses owned by minorities, women, service-disabled veterans, and persons with disabilities. Such reports shall be provided to the State of Tennessee Governor's Office of Diversity Business Enterprise in the TN Diversity Software available online at:

<https://tn.diversitysoftware.com/FrontEnd/StartCertification.asp?TN=tn&XID=9810>.

E.3. State Furnished Property. The Contractor shall be responsible for the correct use, maintenance, and protection of all articles of nonexpendable, tangible personal property furnished by the State for the Contractor's use under this Contract. Upon termination of this Contract, all property furnished by the State shall be returned to the State in the same condition as when received, less ordinary wear and tear. Should the property be destroyed, lost, or stolen, the Contractor shall be responsible to the State for the fair market value of the property at the time of loss.

IN WITNESS WHEREOF,

CONTRACTOR LEGAL ENTITY NAME:

CONTRACTOR SIGNATURE

DATE

PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)

Tennessee Department of Agriculture:

Charlie Hatcher, Commissioner

DATE

ATTACHMENT 1**ATTESTATION RE PERSONNEL USED IN CONTRACT PERFORMANCE**

SUBJECT CONTRACT NUMBER:	
CONTRACTOR LEGAL ENTITY NAME:	
EDISON VENDOR IDENTIFICATION NUMBER:	

The Contractor, identified above, does hereby attest, certify, warrant, and assure that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract.

CONTRACTOR SIGNATURE

NOTICE: This attestation MUST be signed by an individual empowered to contractually bind the Contractor. Attach evidence documenting the individual's authority to contractually bind the Contractor, unless the signatory is the Contractor's chief executive or president.

PRINTED NAME AND TITLE OF SIGNATORY

DATE OF ATTESTATION

